

**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

ABRAHAM, PHILLIP, et al.,

Case No. SX-11-CV-0163

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-10 are factual averments regarding the Plaintiffs, (lead Plaintiff born 2/27/1935, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 11-31 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 15, 30 and 31. As to those, SCRG admits as to paragraph 15 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 30 and 31, but denies, as to paragraph 31, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 68 through 74 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

ARROYO, PAULA, et al.,

Case No. SX-15-CV-0621

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-22 are factual averments regarding the Plaintiffs, (lead Plaintiff born 8/11/1949, 6 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 23-43 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 27, 42 and 43. As to those, SCRG admits as to paragraph 27 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 42 and 43, but denies, as to paragraph 43, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 86 through 92 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

LUGO, NAOMI, et al.,

Case No. SX-15-CV-0622

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-11 are factual averments regarding the Plaintiffs, (lead Plaintiff born 12/1/1982, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 12-32 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 16, 31 and 32. As to those, SCRG admits as to paragraph 16 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 31 and 32, but denies, as to paragraph 32, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 74 through 80 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

HERRERA, MARGARITA, et al.,

Case No. SX-15-CV-0623

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-23 are factual averments regarding the Plaintiffs, (lead Plaintiff born 5/15/1966, 6 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 24-44 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 28, 43 and 44. As to those, SCRG admits as to paragraph 28 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 43 and 44, but denies, as to paragraph 44, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 87 through 93 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

QUINONES, WILFREDO, et al.,

Case No. SX-15-CV-0624

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-37 are factual averments regarding the Plaintiffs, (lead Plaintiff born 2/11/1944, 11 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 38-58 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 42, 57 and 58. As to those, SCRG admits as to paragraph 42 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 57 and 58, but denies, as to paragraph 58, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 97 through 103 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

AUDAIN, NATHANIEL, et al.,

Case No. SX-15-CV-0625

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-12 are factual averments regarding the Plaintiffs, (lead Plaintiff born 11/24/1942, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 13-33 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 17, 32 and 33. As to those, SCRG admits as to paragraph 17 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 32 and 33, but denies, as to paragraph 33, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 71 through 77 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

ROSA, ROBERTO JR, et al.,

Case No. SX-15-CV-0626

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-10 are factual averments regarding the Plaintiffs, (lead Plaintiff born 3/14/1982, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 11-31 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 15, 30 and 31. As to those, SCRG admits as to paragraph 15 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 30 and 31, but denies, as to paragraph 31, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 70 through 76 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

COMBIE, JOSEPH M, et al.,

Case No. SX-15-CV-0627

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-10 are factual averments regarding the Plaintiffs, (lead Plaintiff born 10/2/1954, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 11-31 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 15, 30 and 31. As to those, SCRG admits as to paragraph 15 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 30 and 31, but denies, as to paragraph 31, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 70 through 76 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

BERRIOS, JOSE JR, et al.,

Case No. SX-15-CV-0628

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-23 are factual averments regarding the Plaintiffs, (lead Plaintiff born 7/21/1954, 6 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 24-44 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 28, 43 and 44. As to those, SCRG admits as to paragraph 28 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 43 and 44, but denies, as to paragraph 44, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 86 through 92 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

MIRANDA, CESARINA, et al.,

Case No. SX-15-CV-0629

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-10 are factual averments regarding the Plaintiffs, (lead Plaintiff born 5/15/1955, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 11-31 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 15, 30 and 31. As to those, SCRG admits as to paragraph 15 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 30 and 31, but denies, as to paragraph 31, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 70 through 76 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

RODRIGUEZ, AGUSTIN, et al.,

Case No. SX-15-CV-0630

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-17 are factual averments regarding the Plaintiffs, (lead Plaintiff born 7/27/1939, 4 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 18-38 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 22, 37 and 38. As to those, SCRG admits as to paragraph 22 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 37 and 38, but denies, as to paragraph 38, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 75 through 81 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

PARSON, GERRIE G,

Case No. SX-15-CV-0631

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 8/2/1965), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 64 through 70 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

CARTIER, SHERMAINE,

Case No. SX-15-CV-0632

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 1/20/1963), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 65 through 71 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

BEDASIE, SOOKDEO, et al.,

Case No. SX-15-CV-0633

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-14 are factual averments regarding the Plaintiffs, (lead Plaintiff born 6/15/1940, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 15-35 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 19, 34 and 35. As to those, SCRG admits as to paragraph 19 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 34 and 35, but denies, as to paragraph 35, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 75 through 81 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

BERMUDEZ, MARIA E,

Case No. SX-15-CV-0634

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 1/6/1954), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 65 through 71 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

SCOTLAND, DIDACE,

Case No. SX-15-CV-0635

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 6/13/1943), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 65 through 71 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

ADAMS, GUY,

Case No. SX-15-CV-0636

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 1/16/1967), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 65 through 71 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

BRIGHT, RENEE FERDINAND,

Case No. SX-15-CV-0637

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 11/18/1969), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 65 through 71 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

SENTHILL, GLENNEY E,

Case No. SX-15-CV-0638

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 10/16/1941), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 64 through 70 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

JIMENEZ, HOSTAVIO MELENDEZ,

Case No. SX-15-CV-0639

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 10/12/1971), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 65 through 71 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

LOBLACK, MONETTE,

Case No. SX-15-CV-0640

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 11/15/1951), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 65 through 71 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

BRIGHT, SONIA, et al.,

Case No. SX-15-CV-0641

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-16 are factual averments regarding the Plaintiffs, (lead Plaintiff born 11/2/1967, 4 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 17-37 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 21, 36 and 37. As to those, SCRG admits as to paragraph 21 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 36 and 37, but denies, as to paragraph 37, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 79 through 85 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

CASTELLANO, ACELIA G, et al.,

Case No. SX-15-CV-0642

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-13 are factual averments regarding the Plaintiffs, (lead Plaintiff born 5/21/1945, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 14-34 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 18, 33 and 34. As to those, SCRG admits as to paragraph 18 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 33 and 34, but denies, as to paragraph 34, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 74 through 80 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

HENRY, MARY, et al.,

Case No. SX-15-CV-0643

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-14 are factual averments regarding the Plaintiffs, (lead Plaintiff born 4/28/1942, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 15-35 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 19, 34 and 35. As to those, SCRG admits as to paragraph 19 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 34 and 35, but denies, as to paragraph 35, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 75 through 81 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

GREEN, INOCENCIA, et al.,

Case No. SX-15-CV-0644

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-10 are factual averments regarding the Plaintiffs, (lead Plaintiff born 7/4/1954, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 11-31 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 15, 30 and 31. As to those, SCRG admits as to paragraph 15 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 30 and 31, but denies, as to paragraph 31, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 68 through 74 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

JOSEPH, SYLVIA,

Case No. SX-15-CV-0645

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 3/24/1942), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 65 through 71 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

MARTINEZ, BENJAMIN M, et al.,

Case No. SX-15-CV-0646

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-12 are factual averments regarding the Plaintiffs, (lead Plaintiff born 8/20/1954, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 13-33 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 17, 32 and 33. As to those, SCRG admits as to paragraph 17 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 32 and 33, but denies, as to paragraph 33, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 69 through 75 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

RIVERA, BRENDA H, et al.,

Case No. SX-15-CV-0647

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-14 are factual averments regarding the Plaintiffs, (lead Plaintiff born 2/2/1976, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 15-35 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 19, 34 and 35. As to those, SCRG admits as to paragraph 19 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 34 and 35, but denies, as to paragraph 35, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 75 through 81 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

MCKENZIE, SYBIL SWANSTON, et al.,

Case No. SX-15-CV-0648

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-14 are factual averments regarding the Plaintiffs, (lead Plaintiff born 11/9/1943, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 15-35 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 19, 34 and 35. As to those, SCRG admits as to paragraph 19 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 34 and 35, but denies, as to paragraph 35, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 75 through 81 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

ROSA, LEA, et al.,

Case No. SX-15-CV-0649

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-12 are factual averments regarding the Plaintiffs, (lead Plaintiff born 1/1/1944, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 13-33 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 17, 32 and 33. As to those, SCRG admits as to paragraph 17 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 32 and 33, but denies, as to paragraph 33, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 73 through 79 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

NAVARRO, MONICA R, et al.,

Case No. SX-15-CV-0650

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-22 are factual averments regarding the Plaintiffs, (lead Plaintiff born 5/13/1970, 6 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 23-43 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 27, 42 and 43. As to those, SCRG admits as to paragraph 27 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 42 and 43, but denies, as to paragraph 43, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 81 through 87 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

MARTINEZ, EROILDA, et al.,

Case No. SX-15-CV-0651

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-27 are factual averments regarding the Plaintiffs, (lead Plaintiff born 1/24/1943, 7 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 28-48 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 32, 47 and 48. As to those, SCRG admits as to paragraph 32 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 47 and 48, but denies, as to paragraph 48, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 92 through 98 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

EMMANUEL, THECLA SINDY, et al.,

Case No. SX-15-CV-0652

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-13 are factual averments regarding the Plaintiffs, (lead Plaintiff born 3/26/1973, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 14-34 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 18, 33 and 34. As to those, SCRG admits as to paragraph 18 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 33 and 34, but denies, as to paragraph 34, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 71 through 77 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

REYES, FRANCISCA, et al.,

Case No. SX-15-CV-0653

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-12 are factual averments regarding the Plaintiffs, (lead Plaintiff born 1/10/1953, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 13-33 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 17, 32 and 33. As to those, SCRG admits as to paragraph 17 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 32 and 33, but denies, as to paragraph 33, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 69 through 75 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

ST. BRICE-FRANCIS, MARY,

Case No. SX-15-CV-0654

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 2/2/1945), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 64 through 70 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

JAMES, SULIKA ANN, et al.,

Case No. SX-15-CV-0655

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-10 are factual averments regarding the Plaintiffs, (lead Plaintiff born 1/3/1979, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 11-31 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 15, 30 and 31. As to those, SCRG admits as to paragraph 15 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 30 and 31, but denies, as to paragraph 31, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 68 through 74 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

PARILLA, EVELYN L, et al.,

Case No. SX-15-CV-0656

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-13 are factual averments regarding the Plaintiffs, (lead Plaintiff born 2/24/1961, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 14-34 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 18, 33 and 34. As to those, SCRG admits as to paragraph 18 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 33 and 34, but denies, as to paragraph 34, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 73 through 79 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

KING, CARLOS J, et al.,

Case No. SX-15-CV-0657

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-13 are factual averments regarding the Plaintiffs, (lead Plaintiff born 12/21/1976, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 14-34 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 18, 33 and 34. As to those, SCRG admits as to paragraph 18 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 33 and 34, but denies, as to paragraph 34, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 74 through 80 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

HOSPEDALES, RALPH, et al.,

Case No. SX-15-CV-0658

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-12 are factual averments regarding the Plaintiffs, (lead Plaintiff born 7/29/1933, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 13-33 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 17, 32 and 33. As to those, SCRG admits as to paragraph 17 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 32 and 33, but denies, as to paragraph 33, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 69 through 75 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

JOSEPH, MELROSE SAMUEL, et al.,

Case No. SX-15-CV-0659

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-13 are factual averments regarding the Plaintiffs, (lead Plaintiff born 2/23/1937, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 14-34 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 18, 33 and 34. As to those, SCRG admits as to paragraph 18 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 33 and 34, but denies, as to paragraph 34, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 70 through 76 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

PARRILLA, LUZ D, et al.,

Case No. SX-15-CV-0660

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-21 are factual averments regarding the Plaintiffs, (lead Plaintiff born 5/1/1946, 7 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 22-42 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 26, 41 and 42. As to those, SCRG admits as to paragraph 26 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 41 and 42, but denies, as to paragraph 42, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 80 through 86 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

BENJAMIN, PAUL, et al.,

Case No. SX-15-CV-0661

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-17 are factual averments regarding the Plaintiffs, (lead Plaintiff born 1/15/1951, 4 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 18-38 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 22, 37 and 38. As to those, SCRG admits as to paragraph 22 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 37 and 38, but denies, as to paragraph 38, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 76 through 82 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

RAMOS, ISRAEL F, et al.,

Case No. SX-15-CV-0662

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-29 are factual averments regarding the Plaintiffs, (lead Plaintiff born 9/22/1963, 8 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 30-50 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 34, 49 and 50. As to those, SCRG admits as to paragraph 34 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 49 and 50, but denies, as to paragraph 50, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 95 through 101 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

LAPPOST, ELIZABETH, et al.,

Case No. SX-15-CV-0663

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-13 are factual averments regarding the Plaintiffs, (lead Plaintiff born 7/28/1977, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 14-34 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 18, 33 and 34. As to those, SCRG admits as to paragraph 18 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 33 and 34, but denies, as to paragraph 34, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 74 through 80 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

CHRISTOPHE, MARY, et al.,

Case No. SX-15-CV-0664

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-9 are factual averments regarding the Plaintiffs, (lead Plaintiff born 2/5/1953, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 10-30 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 14, 29 and 30. As to those, SCRG admits as to paragraph 14 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 29 and 30, but denies, as to paragraph 30, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 67 through 73 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

SEBASTIAN-SIMON, MICHELLE, et al.,

Case No. SX-15-CV-0665

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-11 are factual averments regarding the Plaintiffs, (lead Plaintiff born 3/3/1970, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 12-32 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 16, 31 and 32. As to those, SCRG admits as to paragraph 16 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 31 and 32, but denies, as to paragraph 32, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 69 through 75 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

JAMES, SHERYL, et al.,

Case No. SX-15-CV-0666

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-14 are factual averments regarding the Plaintiffs, (lead Plaintiff born 6/9/1968, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 15-35 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 19, 34 and 35. As to those, SCRG admits as to paragraph 19 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 34 and 35, but denies, as to paragraph 35, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 75 through 81 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

MURREN, SHIRLEY,

Case No. SX-15-CV-0667

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 8/1/1946), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 63 through 69 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

ACOSTA, EDELMIRO JR, et al.,

Case No. SX-15-CV-0668

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-12 are factual averments regarding the Plaintiffs, (lead Plaintiff born 6/3/1977, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 13-33 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 17, 32 and 33. As to those, SCRG admits as to paragraph 17 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 32 and 33, but denies, as to paragraph 33, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 72 through 78 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

ENCARNACION, LYDDA,

Case No. SX-15-CV-0669

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 3/9/1980), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 65 through 71 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

RODRIGUEZ, OLGA, et al.,

Case No. SX-15-CV-0670

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-16 are factual averments regarding the Plaintiffs, (lead Plaintiff born 5/14/1966, 5 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 17-37 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 21, 36 and 37. As to those, SCRG admits as to paragraph 21 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 36 and 37, but denies, as to paragraph 37, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 71 through 77 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

CRUZ, LEON, et al.,

Case No. SX-15-CV-0671

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-30 are factual averments regarding the Plaintiffs, (lead Plaintiff born 12/1/1952, 10 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 31-51 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 35, 50 and 51. As to those, SCRG admits as to paragraph 35 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 50 and 51, but denies, as to paragraph 51, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 93 through 99 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

JACKSON, HELENMAY, et al.,

Case No. SX-15-CV-0672

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-23 are factual averments regarding the Plaintiffs, (lead Plaintiff born 1/28/1956, 6 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 24-44 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 28, 43 and 44. As to those, SCRG admits as to paragraph 28 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 43 and 44, but denies, as to paragraph 44, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 83 through 89 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

MAYNARD, MARIA, et al.,

Case No. SX-15-CV-0673

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-13 are factual averments regarding the Plaintiffs, (lead Plaintiff born 5/16/1959, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 14-34 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 18, 33 and 34. As to those, SCRG admits as to paragraph 18 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 33 and 34, but denies, as to paragraph 34, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 72 through 78 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

RAMIREZ, ERNESTINO MERCADO, et al.,

Case No. SX-15-CV-0674

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-28 are factual averments regarding the Plaintiffs, (lead Plaintiff born 7/30/1946, 8 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 29-49 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 33, 48 and 49. As to those, SCRG admits as to paragraph 33 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 48 and 49, but denies, as to paragraph 49, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 93 through 99 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

GARCIA, MARIA, et al.,

Case No. SX-15-CV-0675

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-13 are factual averments regarding the Plaintiffs, (lead Plaintiff born 4/15/1958, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 14-34 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 18, 33 and 34. As to those, SCRG admits as to paragraph 18 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 33 and 34, but denies, as to paragraph 34, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 71 through 77 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

PRESCOTT, NANCY, et al.,

Case No. SX-15-CV-0676

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-11 are factual averments regarding the Plaintiffs, (lead Plaintiff born 5/16/1968, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 12-32 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 16, 31 and 32. As to those, SCRG admits as to paragraph 16 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 31 and 32, but denies, as to paragraph 32, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 71 through 77 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

RAMBALLY, ROBERT, et al.,

Case No. SX-15-CV-0677

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-12 are factual averments regarding the Plaintiffs, (lead Plaintiff born 12/12/1950, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 13-33 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 17, 32 and 33. As to those, SCRG admits as to paragraph 17 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 32 and 33, but denies, as to paragraph 33, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 72 through 78 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

MALDANADO, JOSE, et al.,

Case No. SX-15-CV-0678

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-10 are factual averments regarding the Plaintiffs, (lead Plaintiff born 8/27/1946, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 11-31 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 15, 30 and 31. As to those, SCRG admits as to paragraph 15 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 30 and 31, but denies, as to paragraph 31, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 69 through 75 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

LUBIN, JONAH SR, et al.,

Case No. SX-15-CV-0679

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-20 are factual averments regarding the Plaintiffs, (lead Plaintiff born 8/30/1946, 5 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 21-41 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 25, 40 and 41. As to those, SCRG admits as to paragraph 25 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 40 and 41, but denies, as to paragraph 41, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 82 through 88 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

GEORGE, AMOS,

Case No. SX-15-CV-0680

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 12/3/1932), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 64 through 70 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

JEAN-BAPTISTE, GEORGE, et al.,

Case No. SX-15-CV-0681

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-20 are factual averments regarding the Plaintiffs, (lead Plaintiff born 1/16/1947, 5 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 21-41 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 25, 40 and 41. As to those, SCRG admits as to paragraph 25 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 40 and 41, but denies, as to paragraph 41, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 81 through 87 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

HERRERA, ELIZABETH, et al.,

Case No. SX-15-CV-0682

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-22 are factual averments regarding the Plaintiffs, (lead Plaintiff born 11/3/1964, 6 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 23-43 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 27, 42 and 43. As to those, SCRG admits as to paragraph 27 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 42 and 43, but denies, as to paragraph 43, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 81 through 87 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

RAMOS, GABRIELITO, et al.,

Case No. SX-15-CV-0683

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-20 are factual averments regarding the Plaintiffs, (lead Plaintiff born 12/5/1967, 5 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 21-41 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 25, 40 and 41. As to those, SCRG admits as to paragraph 25 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 40 and 41, but denies, as to paragraph 41, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 83 through 89 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

ALFRED, LAMBERT, et al.,

Case No. SX-15-CV-0684

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-23 are factual averments regarding the Plaintiffs, (lead Plaintiff born 8/28/1946, 6 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 24-44 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 28, 43 and 44. As to those, SCRG admits as to paragraph 28 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 43 and 44, but denies, as to paragraph 44, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 86 through 92 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

QUINONES, PABLO MELENDEZ, et al.,

Case No. SX-15-CV-0685

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-13 are factual averments regarding the Plaintiffs, (lead Plaintiff born 1/26/1923, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 14-34 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 18, 33 and 34. As to those, SCRG admits as to paragraph 18 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 33 and 34, but denies, as to paragraph 34, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 74 through 80 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

JEAN-PIERRE, EDMAY, et al.,

Case No. SX-15-CV-0686

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-16 are factual averments regarding the Plaintiffs, (lead Plaintiff born 5/6/1953, 4 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 17-37 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 21, 36 and 37. As to those, SCRG admits as to paragraph 21 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 36 and 37, but denies, as to paragraph 37, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 77 through 83 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

BROWN, GWENETH, et al.,

Case No. SX-15-CV-0687

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-13 are factual averments regarding the Plaintiffs, (lead Plaintiff born 2/18/1950, 4 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 14-34 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 18, 33 and 34. As to those, SCRG admits as to paragraph 18 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 33 and 34, but denies, as to paragraph 34, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 72 through 78 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

QUINONES, ELVA, et al.,

Case No. SX-15-CV-0688

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-19 are factual averments regarding the Plaintiffs, (lead Plaintiff born 3/4/1958, 5 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 20-40 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 24, 39 and 40. As to those, SCRG admits as to paragraph 24 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 39 and 40, but denies, as to paragraph 40, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 81 through 87 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

MENDOZA, ZORAIDA, et al.,

Case No. SX-15-CV-0689

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-16 are factual averments regarding the Plaintiffs, (lead Plaintiff born 12/27/1961, 4 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 17-37 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 21, 36 and 37. As to those, SCRG admits as to paragraph 21 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 36 and 37, but denies, as to paragraph 37, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 77 through 83 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

NAVARRO, MARIA, et al.,

Case No. SX-15-CV-0690

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-20 are factual averments regarding the Plaintiffs, (lead Plaintiff born 12/27/1969, 5 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 21-41 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 25, 40 and 41. As to those, SCRG admits as to paragraph 25 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 40 and 41, but denies, as to paragraph 41, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 83 through 89 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

RIVERA, NANCY I, et al.,

Case No. SX-15-CV-0691

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-13 are factual averments regarding the Plaintiffs, (lead Plaintiff born 1/27/1974, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 14-34 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 18, 33 and 34. As to those, SCRG admits as to paragraph 18 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 33 and 34, but denies, as to paragraph 34, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 73 through 79 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

MORALES, ANA ROSA, et al.,

Case No. SX-15-CV-0692

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-13 are factual averments regarding the Plaintiffs, (lead Plaintiff born 3/22/1960, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 14-34 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 18, 33 and 34. As to those, SCRG admits as to paragraph 18 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 33 and 34, but denies, as to paragraph 34, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 73 through 79 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

PEREZ, CARMEN L, et al.,

Case No. SX-15-CV-0693

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-20 are factual averments regarding the Plaintiffs, (lead Plaintiff born 4/25/1968, 5 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 21-41 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 25, 40 and 41. As to those, SCRG admits as to paragraph 25 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 40 and 41, but denies, as to paragraph 41, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 84 through 90 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

LEBRON, MARIA SOCORRO, et al.,

Case No. SX-15-CV-0694

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-19 are factual averments regarding the Plaintiffs, (lead Plaintiff born 5/23/1973, 5 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 20-40 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 24, 39 and 40. As to those, SCRG admits as to paragraph 24 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 39 and 40, but denies, as to paragraph 40, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 81 through 87 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

VEGA, JULIA MARIA, et al.,

Case No. SX-15-CV-0695

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-19 are factual averments regarding the Plaintiffs, (lead Plaintiff born 7/4/1947, 5 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 20-40 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 24, 39 and 40. As to those, SCRG admits as to paragraph 24 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 39 and 40, but denies, as to paragraph 40, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 81 through 87 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

FULGENCIO, NILSA IRIS CRUZ, et al.,

Case No. SX-15-CV-0696

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-23 are factual averments regarding the Plaintiffs, (lead Plaintiff born 5/11/1959, 6 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 24-44 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 28, 43 and 44. As to those, SCRG admits as to paragraph 28 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 43 and 44, but denies, as to paragraph 44, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 86 through 92 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

MAYNARD, NADEAN, et al.,

Case No. SX-15-CV-0697

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-19 are factual averments regarding the Plaintiffs, (lead Plaintiff born 8/8/1958, 5 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 20-40 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 24, 39 and 40. As to those, SCRG admits as to paragraph 24 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 39 and 40, but denies, as to paragraph 40, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 82 through 88 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

SANES, ESTHER, et al.,

Case No. SX-15-CV-0698

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-11 are factual averments regarding the Plaintiffs, (lead Plaintiff born 3/6/1953, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 12-32 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 16, 31 and 32. As to those, SCRG admits as to paragraph 16 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 31 and 32, but denies, as to paragraph 32, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 71 through 77 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

WILLIAMS, ILDEFONSA,

Case No. SX-15-CV-0699

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 1/26/1938), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 65 through 71 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

VENTURA, SALVADOR MARTINEZ, et al.,

Case No. SX-15-CV-0700

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-23 are factual averments regarding the Plaintiffs, (lead Plaintiff born 5/6/1947, 6 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 24-44 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 28, 43 and 44. As to those, SCRG admits as to paragraph 28 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 43 and 44, but denies, as to paragraph 44, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 81 through 87 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

RODRIGUEZ, JULIO, et al.,

Case No. SX-15-CV-0701

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-25 are factual averments regarding the Plaintiffs, (lead Plaintiff born 2/20/1943, 7 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 26-46 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 30, 45 and 46. As to those, SCRG admits as to paragraph 30 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 45 and 46, but denies, as to paragraph 46, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 89 through 95 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

MIRANDA, MIGUEL ANGEL, et al.,

Case No. SX-15-CV-0702

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-25 are factual averments regarding the Plaintiffs, (lead Plaintiff born 4/3/1967, 7 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 26-46 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 30, 45 and 46. As to those, SCRG admits as to paragraph 30 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 45 and 46, but denies, as to paragraph 46, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 81 through 87 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

CEPEDA, ELBA, et al.,

Case No. SX-15-CV-0703

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-17 are factual averments regarding the Plaintiffs, (lead Plaintiff born 6/19/1951, 4 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 18-38 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 22, 37 and 38. As to those, SCRG admits as to paragraph 22 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 37 and 38, but denies, as to paragraph 38, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 77 through 83 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

LECOINTE, GLORIA, et al.,

Case No. SX-15-CV-0704

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-9 are factual averments regarding the Plaintiffs, (lead Plaintiff born 11/21/1952, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 10-30 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 14, 29 and 30. As to those, SCRG admits as to paragraph 14 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 29 and 30, but denies, as to paragraph 30, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 68 through 74 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

ORTIZ, EDWIN SR, et al.,

Case No. SX-15-CV-0705

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-20 are factual averments regarding the Plaintiffs, (lead Plaintiff born 11/26/1949, 5 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 21-41 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 25, 40 and 41. As to those, SCRG admits as to paragraph 25 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 40 and 41, but denies, as to paragraph 41, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 81 through 87 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

ALICEA, EMMA, et al.,

Case No. SX-15-CV-0706

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-29 are factual averments regarding the Plaintiffs, (lead Plaintiff born 6/11/1970, 8 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 30-50 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 34, 49 and 50. As to those, SCRG admits as to paragraph 34 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 49 and 50, but denies, as to paragraph 50, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 87 through 93 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

ALBERT, CHARMAINE, et al.,

Case No. SX-15-CV-0707

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-19 are factual averments regarding the Plaintiffs, (lead Plaintiff born 5/28/1976, 5 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 20-40 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 24, 39 and 40. As to those, SCRG admits as to paragraph 24 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 39 and 40, but denies, as to paragraph 40, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 82 through 88 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

ROBLES, ANTONIO RAMIREZ, et al.,

Case No. SX-15-CV-0708

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-11 are factual averments regarding the Plaintiffs, (lead Plaintiff born 5/2/1942, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 12-32 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 16, 31 and 32. As to those, SCRG admits as to paragraph 16 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 31 and 32, but denies, as to paragraph 32, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 68 through 74 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

GREENIDGE, SHARON A, et al.,

Case No. SX-15-CV-0709

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-13 are factual averments regarding the Plaintiffs, (lead Plaintiff born 8/17/1956, 4 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 14-34 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 18, 33 and 34. As to those, SCRG admits as to paragraph 18 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 33 and 34, but denies, as to paragraph 34, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 70 through 76 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

RIVERA, MARIE LUZ, et al.,

Case No. SX-15-CV-0710

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-13 are factual averments regarding the Plaintiffs, (lead Plaintiff born 3/1/1970, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 14-34 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 18, 33 and 34. As to those, SCRG admits as to paragraph 18 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 33 and 34, but denies, as to paragraph 34, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 73 through 79 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

ENCARNACION, MARTINA GARCIA, et al.,

Case No. SX-15-CV-0711

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-20 are factual averments regarding the Plaintiffs, (lead Plaintiff born 3/12/1955, 5 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 21-41 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 25, 40 and 41. As to those, SCRG admits as to paragraph 25 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 40 and 41, but denies, as to paragraph 41, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 81 through 87 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

MELENDEZ, MARIA, et al.,

Case No. SX-15-CV-0712

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-19 are factual averments regarding the Plaintiffs, (lead Plaintiff born 5/12/1938, 5 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 20-40 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 24, 39 and 40. As to those, SCRG admits as to paragraph 24 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 39 and 40, but denies, as to paragraph 40, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 81 through 87 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

MATTHEW, MATHIAS, et al.,

Case No. SX-15-CV-0713

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-13 are factual averments regarding the Plaintiffs, (lead Plaintiff born 7/11/1949, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 14-34 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 18, 33 and 34. As to those, SCRG admits as to paragraph 18 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 33 and 34, but denies, as to paragraph 34, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 73 through 79 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

JAMES, SYBIL, et al.,

Case No. SX-15-CV-0714

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-31 are factual averments regarding the Plaintiffs, (lead Plaintiff born 11/21/1949, 9 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 32-52 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 36, 51 and 52. As to those, SCRG admits as to paragraph 36 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 51 and 52, but denies, as to paragraph 52, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 94 through 100 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

MATTHEW, GEORGE, et al.,

Case No. SX-15-CV-0715

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-17 are factual averments regarding the Plaintiffs, (lead Plaintiff born 2/12/1951, 4 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 18-38 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 22, 37 and 38. As to those, SCRG admits as to paragraph 22 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 37 and 38, but denies, as to paragraph 38, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 78 through 84 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

BAPTISTE, NICHOLAS JNO JR, et al.,

Case No. SX-15-CV-0716

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-11 are factual averments regarding the Plaintiffs, (lead Plaintiff born 10/4/1987, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 12-32 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 16, 31 and 32. As to those, SCRG admits as to paragraph 16 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 31 and 32, but denies, as to paragraph 32, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 71 through 77 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

RICHARDSON, MARILYN, et al.,

Case No. SX-15-CV-0717

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-19 are factual averments regarding the Plaintiffs, (lead Plaintiff born 11/16/1963, 5 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 20-40 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 24, 39 and 40. As to those, SCRG admits as to paragraph 24 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 39 and 40, but denies, as to paragraph 40, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 81 through 87 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

LAO, CARMEN MILAGROS, et al.,

Case No. SX-15-CV-0718

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-11 are factual averments regarding the Plaintiffs, (lead Plaintiff born 2/26/1964, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 12-32 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 16, 31 and 32. As to those, SCRG admits as to paragraph 16 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 31 and 32, but denies, as to paragraph 32, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 71 through 77 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

CIRILO, SONIA N, et al.,

Case No. SX-15-CV-0719

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-16 are factual averments regarding the Plaintiffs, (lead Plaintiff born 8/7/1961, 5 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 17-37 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 21, 36 and 37. As to those, SCRG admits as to paragraph 21 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 36 and 37, but denies, as to paragraph 37, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 78 through 84 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

JENKINS, DORIS, et al.,

Case No. SX-15-CV-0720

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-23 are factual averments regarding the Plaintiffs, (lead Plaintiff born 7/6/1970, 7 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 24-44 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 28, 43 and 44. As to those, SCRG admits as to paragraph 28 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 43 and 44, but denies, as to paragraph 44, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 79 through 85 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

ROBERTS, ALMA G, et al.,

Case No. SX-15-CV-0721

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-11 are factual averments regarding the Plaintiffs, (lead Plaintiff born 8/16/1949, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 12-32 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 16, 31 and 32. As to those, SCRG admits as to paragraph 16 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 31 and 32, but denies, as to paragraph 32, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 71 through 77 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

GUERRERO, SENCION, et al.,

Case No. SX-15-CV-0722

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-38 are factual averments regarding the Plaintiffs, (lead Plaintiff born 5/31/1961, 10 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 39-59 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 43, 58 and 59. As to those, SCRG admits as to paragraph 43 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 58 and 59, but denies, as to paragraph 59, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 93 through 99 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

GEORGE, CHARLES, et al.,

Case No. SX-15-CV-0723

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-20 are factual averments regarding the Plaintiffs, (lead Plaintiff born 8/5/1958, 5 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 21-41 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 25, 40 and 41. As to those, SCRG admits as to paragraph 25 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 40 and 41, but denies, as to paragraph 41, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 76 through 82 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

OSORIO-BROOKS, WANDA, et al.,

Case No. SX-15-CV-0724

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-15 are factual averments regarding the Plaintiffs, (lead Plaintiff born 2/12/1972, 4 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 16-36 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 20, 35 and 36. As to those, SCRG admits as to paragraph 20 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 35 and 36, but denies, as to paragraph 36, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 74 through 80 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

FLOYD, JOSEPH,

Case No. SX-15-CV-0725

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 3/3/1932), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 64 through 70 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

MADRIGAL, SANDRA, et al.,

Case No. SX-15-CV-0726

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-11 are factual averments regarding the Plaintiffs, (lead Plaintiff born 6/8/1977, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 12-32 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 16, 31 and 32. As to those, SCRG admits as to paragraph 16 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 31 and 32, but denies, as to paragraph 32, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 69 through 75 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

ENCARNACION, JOSE CRESPO,

Case No. SX-15-CV-0727

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 1/10/1953), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 64 through 70 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

MARTINEZ, MIGUEL A, et al.,

Case No. SX-15-CV-0728

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-15 are factual averments regarding the Plaintiffs, (lead Plaintiff born 8/29/1952, 5 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 16-36 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 20, 35 and 36. As to those, SCRG admits as to paragraph 20 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 35 and 36, but denies, as to paragraph 36, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 74 through 80 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

CARRASQUILLO, MARIBEL VEGAS, et al.,

Case No. SX-15-CV-0729

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-14 are factual averments regarding the Plaintiffs, (lead Plaintiff born 9/25/1967, 4 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 15-35 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 19, 34 and 35. As to those, SCRG admits as to paragraph 19 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 34 and 35, but denies, as to paragraph 35, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 73 through 79 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

DESBONNES, NATHALIE,

Case No. SX-15-CV-0730

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 7/28/1948), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 64 through 70 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

FERDINAND, SAMUEL,

Case No. SX-15-CV-0731

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 11/3/1951), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 64 through 70 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

BODDIE, JOSEPHINE,

Case No. SX-15-CV-0732

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 11/12/1950), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 64 through 70 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

SANTOS, LILLIAN, et al.,

Case No. SX-15-CV-0733

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-13 are factual averments regarding the Plaintiffs, (lead Plaintiff born 11/7/1965, 4 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 14-34 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 18, 33 and 34. As to those, SCRG admits as to paragraph 18 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 33 and 34, but denies, as to paragraph 34, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 72 through 78 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

MALAYKHAN, EYAJIE, et al.,

Case No. SX-15-CV-0734

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-13 are factual averments regarding the Plaintiffs, (lead Plaintiff born 2/17/1955, 4 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 14-34 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 18, 33 and 34. As to those, SCRG admits as to paragraph 18 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 33 and 34, but denies, as to paragraph 34, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 74 through 80 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

CAMACHO, LUZ DELIA, et al.,

Case No. SX-15-CV-0735

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-19 are factual averments regarding the Plaintiffs, (lead Plaintiff born 6/5/1969, 5 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 20-40 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 24, 39 and 40. As to those, SCRG admits as to paragraph 24 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 39 and 40, but denies, as to paragraph 40, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 72 through 78 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

SOTO, DOLORES,

Case No. SX-15-CV-0736

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 9/15/1937), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 64 through 70 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

CINTRON, CHRISTINO T, et al.,

Case No. SX-15-CV-0737

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-15 are factual averments regarding the Plaintiffs, (lead Plaintiff born 5/17/1958, 4 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 16-36 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 20, 35 and 36. As to those, SCRG admits as to paragraph 20 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 35 and 36, but denies, as to paragraph 36, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 77 through 83 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

DAVIS, SAMUEL,

Case No. SX-15-CV-0738

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 2/23/1976), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 64 through 70 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

BERMUDEZ, DELMA, et al.,

Case No. SX-15-CV-0739

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-16 are factual averments regarding the Plaintiffs, (lead Plaintiff born 7/19/1970, 4 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 17-37 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 21, 36 and 37. As to those, SCRG admits as to paragraph 21 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 36 and 37, but denies, as to paragraph 37, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 75 through 81 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

CRUZ, FELIX RAMON JR, et al.,

Case No. SX-15-CV-0740

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-15 are factual averments regarding the Plaintiffs, (lead Plaintiff born 5/20/1962, 4 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 16-36 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 20, 35 and 36. As to those, SCRG admits as to paragraph 20 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 35 and 36, but denies, as to paragraph 36, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 74 through 80 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

SANES, SIOMARA, et al.,

Case No. SX-15-CV-0741

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-15 are factual averments regarding the Plaintiffs, (lead Plaintiff born 9/19/1961, 5 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 16-36 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 20, 35 and 36. As to those, SCRG admits as to paragraph 20 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 35 and 36, but denies, as to paragraph 36, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 74 through 80 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

HERRERA, PEDRO,

Case No. SX-15-CV-0742

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 4/8/1963), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 65 through 71 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

MARTINEZ, HUMBERTO,

Case No. SX-15-CV-0743

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 8/14/1964), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 64 through 70 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

HENRY, MICHELINE, et al.,

Case No. SX-15-CV-0744

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-12 are factual averments regarding the Plaintiffs, (lead Plaintiff born 9/15/1976, 4 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 13-33 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 17, 32 and 33. As to those, SCRG admits as to paragraph 17 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 32 and 33, but denies, as to paragraph 33, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 73 through 79 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

BOULOGNE, GRISELLE,

Case No. SX-15-CV-0745

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 9/20/1986), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 64 through 70 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

ALOYO, LILLIAN,

Case No. SX-15-CV-0746

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 4/27/1976), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 64 through 70 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

HERNANDEZ, RUTH REYES, et al.,

Case No. SX-15-CV-0747

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-22 are factual averments regarding the Plaintiffs, (lead Plaintiff born 8/1/1965, 6 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 23-43 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 27, 42 and 43. As to those, SCRG admits as to paragraph 27 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 42 and 43, but denies, as to paragraph 43, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 85 through 91 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

JIMENEZ, JOSE M. OLIVO, et al.,

Case No. SX-15-CV-0748

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-17 are factual averments regarding the Plaintiffs, (lead Plaintiff born 1/12/1960, 5 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 18-38 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 22, 37 and 38. As to those, SCRG admits as to paragraph 22 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 37 and 38, but denies, as to paragraph 38, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 76 through 82 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

HENRY, LUCILLE MITCHELL,

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

Case No. SX-15-CV-0749

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 4/13/1945), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 64 through 70 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

CRUZ, MARIA JUDITH, et al.,

Case No. SX-15-CV-0750

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-14 are factual averments regarding the Plaintiffs, (lead Plaintiff born 1/17/1962, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 15-35 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 19, 34 and 35. As to those, SCRG admits as to paragraph 19 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 34 and 35, but denies, as to paragraph 35, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 72 through 78 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

CEPEDA, LUZ ELENIA, et al.,

Case No. SX-15-CV-0751

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-23 are factual averments regarding the Plaintiffs, (lead Plaintiff born 11/6/1959, 6 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 24-44 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 28, 43 and 44. As to those, SCRG admits as to paragraph 28 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 43 and 44, but denies, as to paragraph 44, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 86 through 92 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

CINTRON, REGINA, et al.,

Case No. SX-15-CV-0752

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-16 are factual averments regarding the Plaintiffs, (lead Plaintiff born 5/17/1958, 4 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 17-37 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 21, 36 and 37. As to those, SCRG admits as to paragraph 21 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 36 and 37, but denies, as to paragraph 37, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 77 through 83 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

BERMUDEZ, JUAN, et al.,

Case No. SX-15-CV-0753

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-17 are factual averments regarding the Plaintiffs, (lead Plaintiff born 8/10/1971, 4 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 18-38 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 22, 37 and 38. As to those, SCRG admits as to paragraph 22 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 37 and 38, but denies, as to paragraph 38, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 75 through 81 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

PARRILLA, MARILYN JUAREZ, et al.,

Case No. SX-15-CV-0754

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-11 are factual averments regarding the Plaintiffs, (lead Plaintiff born 3/31/1974, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 12-32 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 16, 31 and 32. As to those, SCRG admits as to paragraph 16 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 31 and 32, but denies, as to paragraph 32, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 71 through 77 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

CIRILO, JOSE L, et al.,

Case No. SX-15-CV-0755

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-13 are factual averments regarding the Plaintiffs, (lead Plaintiff born 10/16/1964, 4 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 14-34 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 18, 33 and 34. As to those, SCRG admits as to paragraph 18 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 33 and 34, but denies, as to paragraph 34, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 74 through 80 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

SALDANA, JUANITO,

Case No. SX-15-CV-0756

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 9/21/1957), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 61 through 67 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

CABREJA, JOSE,

Case No. SX-15-CV-0757

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 10/1/1957), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 64 through 70 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

PENA, MARCO GARCIA,

Case No. SX-15-CV-0758

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 10/11/1956), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 62 through 68 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

CARRASQUILLO, JULIO A,

Case No. SX-15-CV-0759

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 8/24/1958), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 62 through 68 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

ASHE, ALFRED E,

Case No. SX-15-CV-0760

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 1/12/1941), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 64 through 70 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

CARRASQUILLO, VICTOR MANUEL,

Case No. SX-15-CV-0761

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 8/21/1955), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 62 through 68 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

DEJESUS, LUZ ASENCIO,

Plaintiff,

v.

Case No. SX-15-CV-0762

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 11/9/1949), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 65 through 71 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

MORAIN, CATHERINE INC, et al.,

Case No. SX-15-CV-0763

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-18 are factual averments regarding the Plaintiffs, (lead Plaintiff born 11/20/1945, 5 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 19-39 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 23, 38 and 39. As to those, SCRG admits as to paragraph 23 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 38 and 39, but denies, as to paragraph 39, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 80 through 86 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

ROBLES, IVETTE, et al.,

Case No. SX-15-CV-0764

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-23 are factual averments regarding the Plaintiffs, (lead Plaintiff born 2/14/1960, 6 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 24-44 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 28, 43 and 44. As to those, SCRG admits as to paragraph 28 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 43 and 44, but denies, as to paragraph 44, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 84 through 90 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

OSCAR, MALINA,

Case No. SX-15-CV-0765

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 10/16/1959), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 61 through 67 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

PRESCOTT, EUSTACE, et al.,

Case No. SX-15-CV-0766

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-16 are factual averments regarding the Plaintiffs, (lead Plaintiff born 9/29/1938, 5 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 17-37 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 21, 36 and 37. As to those, SCRG admits as to paragraph 21 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 36 and 37, but denies, as to paragraph 37, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 76 through 82 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

CRISPIN, FERNANDO, et al.,

Case No. SX-15-CV-0767

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-17 are factual averments regarding the Plaintiffs, (lead Plaintiff born 8/17/1954, 4 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 18-38 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 22, 37 and 38. As to those, SCRG admits as to paragraph 22 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 37 and 38, but denies, as to paragraph 38, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 78 through 84 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

RODRIGUEZ, GISELA, et al.,

Case No. SX-15-CV-0768

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-12 are factual averments regarding the Plaintiffs, (lead Plaintiff born 8/17/1959, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 13-33 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 17, 32 and 33. As to those, SCRG admits as to paragraph 17 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 32 and 33, but denies, as to paragraph 33, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 72 through 78 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

RODRIGUEZ, CARMEN M,

Case No. SX-15-CV-0769

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 8/9/1960), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 64 through 70 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

BONNIE, ALBERTHA, et al.,

Case No. SX-15-CV-0770

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-19 are factual averments regarding the Plaintiffs, (lead Plaintiff born 6/19/1974, 5 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 20-40 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 24, 39 and 40. As to those, SCRG admits as to paragraph 24 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 39 and 40, but denies, as to paragraph 40, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 81 through 87 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

TORRES, CARMELO JR,

Case No. SX-15-CV-0771

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 7/28/1975), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 64 through 70 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

FELIX, MIGUELINA SANES,

Plaintiff,

v.

Case No. SX-15-CV-0772

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 4/2/1957), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 64 through 70 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

ARROYO, HECTOR M, et al.,

Case No. SX-15-CV-0773

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-17 are factual averments regarding the Plaintiffs, (lead Plaintiff born 7/21/1952, 4 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 18-38 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 22, 37 and 38. As to those, SCRG admits as to paragraph 22 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 37 and 38, but denies, as to paragraph 38, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 79 through 85 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

BENJAMIN, YVETTE M.R., et al.,

Case No. SX-15-CV-0774

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-15 are factual averments regarding the Plaintiffs, (lead Plaintiff born 11/9/1967, 5 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 16-36 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 20, 35 and 36. As to those, SCRG admits as to paragraph 20 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 35 and 36, but denies, as to paragraph 36, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 75 through 81 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

RICHARDSON, LAURENCEA L,

Case No. SX-15-CV-0775

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 1/18/1939), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 64 through 70 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

AYALA, ESCOLASTICA, et al.,

Case No. SX-15-CV-0776

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-13 are factual averments regarding the Plaintiffs, (lead Plaintiff born 2/10/1970, 4 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 14-34 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 18, 33 and 34. As to those, SCRG admits as to paragraph 18 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 33 and 34, but denies, as to paragraph 34, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 72 through 78 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

LOCKHART, JESSICA, et al.,

Case No. SX-15-CV-0777

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-15 are factual averments regarding the Plaintiffs, (lead Plaintiff born 10/24/1996, 4 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 16-36 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 20, 35 and 36. As to those, SCRG admits as to paragraph 20 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 35 and 36, but denies, as to paragraph 36, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 76 through 82 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

RIVERA, NORBERTO FELIPE,

Case No. SX-15-CV-0778

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 6/6/1959), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 64 through 70 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

BENJAMIN, DOROTHY, et al.,

Case No. SX-15-CV-0779

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-13 are factual averments regarding the Plaintiffs, (lead Plaintiff born 2/28/1947, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 14-34 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 18, 33 and 34. As to those, SCRG admits as to paragraph 18 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 33 and 34, but denies, as to paragraph 34, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 69 through 75 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

SOTO, ROSA, et al.,

Case No. SX-15-CV-0780

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-23 are factual averments regarding the Plaintiffs, (lead Plaintiff born 6/11/1965, 6 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 24-44 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 28, 43 and 44. As to those, SCRG admits as to paragraph 28 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 43 and 44, but denies, as to paragraph 44, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 86 through 92 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

CARTY, ROSEMARIE, et al.,

Case No. SX-15-CV-0781

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-17 are factual averments regarding the Plaintiffs, (lead Plaintiff born 12/9/1955, 5 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 18-38 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 22, 37 and 38. As to those, SCRG admits as to paragraph 22 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 37 and 38, but denies, as to paragraph 38, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 79 through 85 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

CORREA, MARIA P,

Case No. SX-15-CV-0782

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 4/16/1948), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 64 through 70 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

RAMOS, JOSEFINA ISABEL,

Case No. SX-15-CV-0783

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 12/29/1947), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 64 through 70 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

LEBRO, SECUNDINA ENCANACION,

Case No. SX-15-CV-0784

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 7/1/1939), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 64 through 70 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

SHIRLEY, HELEN,

Case No. SX-15-CV-0785

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 9/13/1948), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 64 through 70 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

CANDELARIO, AURA, et al.,

Case No. SX-15-CV-0786

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-19 are factual averments regarding the Plaintiffs, (lead Plaintiff born 9/29/1960, 5 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 20-40 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 24, 39 and 40. As to those, SCRG admits as to paragraph 24 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 39 and 40, but denies, as to paragraph 40, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 75 through 81 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

STEPHEN, THERESA,

Case No. SX-15-CV-0787

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 11/27/1939), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 64 through 70 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

FREDERICK, KORAH,

Case No. SX-15-CV-0788

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 11/27/1937), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 64 through 70 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

PEREZ, ANGEL M,

Case No. SX-15-CV-0789

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 1/5/1936), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 64 through 70 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

ACOSTA, CARMEN, et al.,

Case No. SX-15-CV-0790

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-17 are factual averments regarding the Plaintiffs, (lead Plaintiff born 11/29/1951, 5 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 18-38 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 22, 37 and 38. As to those, SCRG admits as to paragraph 22 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 37 and 38, but denies, as to paragraph 38, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 75 through 81 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

FELIX, MATHILDA, et al.,

Case No. SX-15-CV-0791

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-16 are factual averments regarding the Plaintiffs, (lead Plaintiff born 2/20/1948, 4 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 17-37 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 21, 36 and 37. As to those, SCRG admits as to paragraph 21 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 36 and 37, but denies, as to paragraph 37, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 77 through 83 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

EDWARD, PATRICK, et al.,

Case No. SX-15-CV-0792

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-17 are factual averments regarding the Plaintiffs, (lead Plaintiff born 4/3/1945, 4 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 18-38 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 22, 37 and 38. As to those, SCRG admits as to paragraph 22 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 37 and 38, but denies, as to paragraph 38, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 77 through 83 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

RODRIGUEZ, EDWIN, et al.,

Case No. SX-15-CV-0793

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-19 are factual averments regarding the Plaintiffs, (lead Plaintiff born 7/27/1959, 5 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 20-40 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 24, 39 and 40. As to those, SCRG admits as to paragraph 24 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 39 and 40, but denies, as to paragraph 40, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 79 through 85 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

KITURE, LUCINA V,

Case No. SX-15-CV-0794

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 12/6/1951), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 64 through 70 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

MARTINEZ, MILAGRO, et al.,

Case No. SX-15-CV-0795

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-21 are factual averments regarding the Plaintiffs, (lead Plaintiff born 12:00:00 AM, 8 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 22-42 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 26, 41 and 42. As to those, SCRG admits as to paragraph 26 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 41 and 42, but denies, as to paragraph 42, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 86 through 92 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

MATTHEW, MARTIN, et al.,

Case No. SX-15-CV-0796

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-17 are factual averments regarding the Plaintiffs, (lead Plaintiff born 5/6/1943, 4 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 18-38 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 22, 37 and 38. As to those, SCRG admits as to paragraph 22 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 37 and 38, but denies, as to paragraph 38, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 78 through 84 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

EUGENE, FELIXIA, et al.,

Case No. SX-15-CV-0797

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-20 are factual averments regarding the Plaintiffs, (lead Plaintiff born 8/14/1948, 6 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 21-41 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 25, 40 and 41. As to those, SCRG admits as to paragraph 25 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 40 and 41, but denies, as to paragraph 41, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 80 through 86 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

BOULOGNE, EVELIS,

Case No. SX-15-CV-0798

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 12/5/1983), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 64 through 70 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

RAMIREZ, EDWIN EDUARDO, et al.,

Case No. SX-15-CV-0799

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-23 are factual averments regarding the Plaintiffs, (lead Plaintiff born 10/18/1944, 6 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 24-44 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 28, 43 and 44. As to those, SCRG admits as to paragraph 28 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 43 and 44, but denies, as to paragraph 44, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 86 through 92 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

MELENDEZ, YOLANDA, et al.,

Case No. SX-15-CV-0800

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-20 are factual averments regarding the Plaintiffs, (lead Plaintiff born 12/8/1973, 5 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 21-41 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 25, 40 and 41. As to those, SCRG admits as to paragraph 25 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 40 and 41, but denies, as to paragraph 41, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 82 through 88 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

DURAND, BENJAMIN,

Case No. SX-15-CV-0801

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 3/3/1943), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 64 through 70 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

ARITUS, JEAN BERTHONY,

Case No. SX-15-CV-0802

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 10/29/1958), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 64 through 70 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

SANTIAGO, CESARIO JR,

Case No. SX-15-CV-0803

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 4/30/1957), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 64 through 70 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

CRUZ, TABITA M,

Case No. SX-15-CV-0804

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 2/19/1942), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 64 through 70 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

PEREZ, EULOGIO JR, et al.,

Case No. SX-15-CV-0805

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-14 are factual averments regarding the Plaintiffs, (lead Plaintiff born 7/7/1971, 4 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 15-35 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 19, 34 and 35. As to those, SCRG admits as to paragraph 19 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 34 and 35, but denies, as to paragraph 35, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 72 through 78 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

HERRERA, AURELIA,

Case No. SX-15-CV-0806

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 5/16/1946), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 64 through 70 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

HEPBURN, MARIA,

Case No. SX-15-CV-0807

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 7/3/1946), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 64 through 70 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

QUINONES, LUZ MARIA, et al.,

Case No. SX-15-CV-0808

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-11 are factual averments regarding the Plaintiffs, (lead Plaintiff born 9/28/1967, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 12-32 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 16, 31 and 32. As to those, SCRG admits as to paragraph 16 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 31 and 32, but denies, as to paragraph 32, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 71 through 77 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

ROLDAN, ELIUD, et al.,

Case No. SX-15-CV-0809

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-16 are factual averments regarding the Plaintiffs, (lead Plaintiff born 12/30/1959, 4 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 17-37 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 21, 36 and 37. As to those, SCRG admits as to paragraph 21 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 36 and 37, but denies, as to paragraph 37, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 73 through 79 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

BENJAMIN, LEROY, et al.,

Case No. SX-15-CV-0810

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-16 are factual averments regarding the Plaintiffs, (lead Plaintiff born 11/25/1949, 4 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 17-37 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 21, 36 and 37. As to those, SCRG admits as to paragraph 21 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 36 and 37, but denies, as to paragraph 37, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 75 through 81 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

PETERSEN, VERNA LEO, et al.,

Case No. SX-15-CV-0811

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-14 are factual averments regarding the Plaintiffs, (lead Plaintiff born 12/13/1971, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 15-35 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 19, 34 and 35. As to those, SCRG admits as to paragraph 19 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 34 and 35, but denies, as to paragraph 35, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 75 through 81 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

RIVERA, JANET AYALA,

Case No. SX-15-CV-0812

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 12/3/1963), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 64 through 70 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

MARTINEZ, CARMEN D, et al.,

Case No. SX-15-CV-0813

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-16 are factual averments regarding the Plaintiffs, (lead Plaintiff born 10/15/1959, 4 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 17-37 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 21, 36 and 37. As to those, SCRG admits as to paragraph 21 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 36 and 37, but denies, as to paragraph 37, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 77 through 83 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

LEWIS, ANNE MARIE, et al.,

Case No. SX-15-CV-0814

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-10 are factual averments regarding the Plaintiffs, (lead Plaintiff born 9/4/1942, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 11-31 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 15, 30 and 31. As to those, SCRG admits as to paragraph 15 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 30 and 31, but denies, as to paragraph 31, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 68 through 74 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

GIRON, MINERVA, et al.,

Case No. SX-15-CV-0815

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-10 are factual averments regarding the Plaintiffs, (lead Plaintiff born 7/21/1940, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 11-31 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 15, 30 and 31. As to those, SCRG admits as to paragraph 15 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 30 and 31, but denies, as to paragraph 31, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 68 through 74 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

MARTINEZ-CORCINO, ELIA ENID, et al.,

Case No. SX-15-CV-0816

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-10 are factual averments regarding the Plaintiffs, (lead Plaintiff born 5/22/1977, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 11-31 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 15, 30 and 31. As to those, SCRG admits as to paragraph 15 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 30 and 31, but denies, as to paragraph 31, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 68 through 74 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

LEBRON, FERMIN JR, et al.,

Case No. SX-15-CV-0817

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-9 are factual averments regarding the Plaintiffs, (lead Plaintiff born 6/23/1957, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 10-30 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 14, 29 and 30. As to those, SCRG admits as to paragraph 14 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 29 and 30, but denies, as to paragraph 30, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 68 through 74 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

CRUZ, SARA,

Case No. SX-15-CV-0818

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 9/21/1950), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 64 through 70 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

GILBERT, CHARLES, et al.,

Case No. SX-15-CV-0819

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-10 are factual averments regarding the Plaintiffs, (lead Plaintiff born 7/20/1939, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 11-31 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 15, 30 and 31. As to those, SCRG admits as to paragraph 15 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 30 and 31, but denies, as to paragraph 31, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 69 through 75 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

SOANES, WYCLIFFE, et al.,

Case No. SX-15-CV-0820

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-10 are factual averments regarding the Plaintiffs, (lead Plaintiff born 6/16/1930, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 11-31 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 15, 30 and 31. As to those, SCRG admits as to paragraph 15 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 30 and 31, but denies, as to paragraph 31, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 69 through 75 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

BERRIOS, JOSE III, et al.,

Case No. SX-15-CV-0821

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-10 are factual averments regarding the Plaintiffs, (lead Plaintiff born 6/19/1974, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 11-31 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 15, 30 and 31. As to those, SCRG admits as to paragraph 15 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 30 and 31, but denies, as to paragraph 31, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 70 through 76 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

MORALES, ARMANDO, et al.,

Case No. SX-15-CV-0822

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-10 are factual averments regarding the Plaintiffs, (lead Plaintiff born 7/19/1957, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 11-31 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 15, 30 and 31. As to those, SCRG admits as to paragraph 15 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 30 and 31, but denies, as to paragraph 31, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 70 through 76 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

INGRID, et al.,

Case No. SX-15-CV-0823

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-10 are factual averments regarding the Plaintiffs, (lead Plaintiff born 10/22/1963, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 11-31 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 15, 30 and 31. As to those, SCRG admits as to paragraph 15 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 30 and 31, but denies, as to paragraph 31, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 70 through 76 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

LLANOS, VERONICA, et al.,

Case No. SX-15-CV-0824

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-10 are factual averments regarding the Plaintiffs, (lead Plaintiff born 12/23/1965, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 11-31 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 15, 30 and 31. As to those, SCRG admits as to paragraph 15 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 30 and 31, but denies, as to paragraph 31, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 68 through 74 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

MORALES, CARMEN T, et al.,

Case No. SX-15-CV-0825

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-10 are factual averments regarding the Plaintiffs, (lead Plaintiff born 10/11/1953, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 11-31 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 15, 30 and 31. As to those, SCRG admits as to paragraph 15 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 30 and 31, but denies, as to paragraph 31, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 68 through 74 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

VENTURA, NOELIA SOTO,

Plaintiff,

v.

Case No. SX-15-CV-0826

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 9/22/1950), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 64 through 70 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

LANZO, ARTEMIA SANTIAGO, et al.,

Case No. SX-15-CV-0827

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-11 are factual averments regarding the Plaintiffs, (lead Plaintiff born 11/9/1927, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 12-32 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 16, 31 and 32. As to those, SCRG admits as to paragraph 16 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 31 and 32, but denies, as to paragraph 32, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 69 through 75 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

BARNARD, MELVINA, et al.,

Case No. SX-15-CV-0828

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-9 are factual averments regarding the Plaintiffs, (lead Plaintiff born 11/21/1944, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 10-30 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 14, 29 and 30. As to those, SCRG admits as to paragraph 14 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 29 and 30, but denies, as to paragraph 30, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 68 through 74 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

LANGUEDOC, CLEMENT, et al.,

Case No. SX-15-CV-0829

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-9 are factual averments regarding the Plaintiffs, (lead Plaintiff born 3/11/1966, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 10-30 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 14, 29 and 30. As to those, SCRG admits as to paragraph 14 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 29 and 30, but denies, as to paragraph 30, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 67 through 73 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

MARTE, FRANKLIN, et al.,

Case No. SX-15-CV-0830

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-9 are factual averments regarding the Plaintiffs, (lead Plaintiff born 1/14/1969, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 10-30 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 14, 29 and 30. As to those, SCRG admits as to paragraph 14 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 29 and 30, but denies, as to paragraph 30, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 68 through 74 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

SANTOS, THERESITA, et al.,

Case No. SX-15-CV-0831

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-8 are factual averments regarding the Plaintiffs, (lead Plaintiff born 1/22/1939, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 9-29 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 13, 28 and 29. As to those, SCRG admits as to paragraph 13 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 28 and 29, but denies, as to paragraph 29, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 67 through 73 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

DAVID, RUBY C., et al.,

Case No. SX-15-CV-0832

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-9 are factual averments regarding the Plaintiffs, (lead Plaintiff born 9/28/1936, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 10-30 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 14, 29 and 30. As to those, SCRG admits as to paragraph 14 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 29 and 30, but denies, as to paragraph 30, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 66 through 72 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

WILLIAMS, DAISY, et al.,

Case No. SX-15-CV-0833

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-9 are factual averments regarding the Plaintiffs, (lead Plaintiff born 8/10/1947, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 10-30 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 14, 29 and 30. As to those, SCRG admits as to paragraph 14 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 29 and 30, but denies, as to paragraph 30, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 68 through 74 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

COBB, THEOPHILUS, et al.,

Case No. SX-15-CV-0834

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-9 are factual averments regarding the Plaintiffs, (lead Plaintiff born 9/14/1939, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 10-30 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 14, 29 and 30. As to those, SCRG admits as to paragraph 14 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 29 and 30, but denies, as to paragraph 30, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 68 through 74 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

SIMON, ELMEDA, et al.,

Case No. SX-15-CV-0835

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-9 are factual averments regarding the Plaintiffs, (lead Plaintiff born 10/18/1945, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 10-30 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 14, 29 and 30. As to those, SCRG admits as to paragraph 14 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 29 and 30, but denies, as to paragraph 30, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 66 through 72 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

JOSEPH, HELEN M., et al.,

Case No. SX-15-CV-0836

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-9 are factual averments regarding the Plaintiffs, (lead Plaintiff born 12/16/1947, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 10-30 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 14, 29 and 30. As to those, SCRG admits as to paragraph 14 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 29 and 30, but denies, as to paragraph 30, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 67 through 73 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

ROSARIO, ANGELA L., et al.,

Case No. SX-15-CV-0837

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-9 are factual averments regarding the Plaintiffs, (lead Plaintiff born 7/24/1957, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 10-30 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 14, 29 and 30. As to those, SCRG admits as to paragraph 14 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 29 and 30, but denies, as to paragraph 30, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 68 through 74 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

MEADE, STEDROY T., et al.,

Case No. SX-15-CV-0838

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-9 are factual averments regarding the Plaintiffs, (lead Plaintiff born 8/4/1948, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 10-30 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 14, 29 and 30. As to those, SCRG admits as to paragraph 14 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 29 and 30, but denies, as to paragraph 30, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 66 through 72 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

ALEXANDER, CHRISTINA, et al.,

Case No. SX-15-CV-0839

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-9 are factual averments regarding the Plaintiffs, (lead Plaintiff born 12/19/1958, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 10-30 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 14, 29 and 30. As to those, SCRG admits as to paragraph 14 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 29 and 30, but denies, as to paragraph 30, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 68 through 74 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

RAMOS, BRUNILDA, et al.,

Case No. SX-15-CV-0840

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-9 are factual averments regarding the Plaintiffs, (lead Plaintiff born 7/11/1939, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 10-30 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 14, 29 and 30. As to those, SCRG admits as to paragraph 14 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 29 and 30, but denies, as to paragraph 30, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 66 through 72 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

RAMOS, GABRIEL G., et al.,

Case No. SX-15-CV-0841

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-9 are factual averments regarding the Plaintiffs, (lead Plaintiff born 1/2/1946, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 10-30 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 14, 29 and 30. As to those, SCRG admits as to paragraph 14 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 29 and 30, but denies, as to paragraph 30, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 68 through 74 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

AYALA, AWILDA I., et al.,

Case No. SX-15-CV-0842

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-9 are factual averments regarding the Plaintiffs, (lead Plaintiff born 7/7/1957, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 10-30 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 14, 29 and 30. As to those, SCRG admits as to paragraph 14 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 29 and 30, but denies, as to paragraph 30, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 68 through 74 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

ALMESTICA, FRANCISCA, et al.,

Case No. SX-15-CV-0843

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-10 are factual averments regarding the Plaintiffs, (lead Plaintiff born 4/2/1937, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 11-31 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 15, 30 and 31. As to those, SCRG admits as to paragraph 15 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 30 and 31, but denies, as to paragraph 31, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 70 through 76 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

SWEENY, CARMEN,

Case No. SX-15-CV-0844

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 9/23/1940), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 64 through 70 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

MARTIN, FREDRICA V., et al.,

Case No. SX-15-CV-0845

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-9 are factual averments regarding the Plaintiffs, (lead Plaintiff born 4/24/1951, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 10-30 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 14, 29 and 30. As to those, SCRG admits as to paragraph 14 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 29 and 30, but denies, as to paragraph 30, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 67 through 73 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

MATTHEW, MICHAEL L., et al.,

Case No. SX-15-CV-0846

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-9 are factual averments regarding the Plaintiffs, (lead Plaintiff born 9/4/1952, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 10-30 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 14, 29 and 30. As to those, SCRG admits as to paragraph 14 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 29 and 30, but denies, as to paragraph 30, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 66 through 72 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

RODRIGUEZ, LESLIE ANN, et al.,

Case No. SX-15-CV-0847

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-9 are factual averments regarding the Plaintiffs, (lead Plaintiff born 5/21/1972, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 10-30 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 14, 29 and 30. As to those, SCRG admits as to paragraph 14 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 29 and 30, but denies, as to paragraph 30, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 68 through 74 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

HODGE, EDMOND S., et al.,

Case No. SX-15-CV-0848

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-9 are factual averments regarding the Plaintiffs, (lead Plaintiff born 10/18/1943, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 10-30 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 14, 29 and 30. As to those, SCRG admits as to paragraph 14 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 29 and 30, but denies, as to paragraph 30, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 68 through 74 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

DOUGLAS, THOMAS, et al.,

Case No. SX-15-CV-0849

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-9 are factual averments regarding the Plaintiffs, (lead Plaintiff born 6/22/1936, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 10-30 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 14, 29 and 30. As to those, SCRG admits as to paragraph 14 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 29 and 30, but denies, as to paragraph 30, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 68 through 74 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

HECTOR, GERALDINE, et al.,

Case No. SX-15-CV-0850

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-9 are factual averments regarding the Plaintiffs, (lead Plaintiff born 1/17/1935, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 10-30 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 14, 29 and 30. As to those, SCRG admits as to paragraph 14 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 29 and 30, but denies, as to paragraph 30, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 68 through 74 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

MORALES, VICTOR MANUEL,

Case No. SX-15-CV-0851

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 8/25/1972), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 64 through 70 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

CAMACHO, NEFTALI SR., et al.,

Case No. SX-15-CV-0852

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-15 are factual averments regarding the Plaintiffs, (lead Plaintiff born 11/21/1967, 5 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 16-36 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 20, 35 and 36. As to those, SCRG admits as to paragraph 20 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 35 and 36, but denies, as to paragraph 36, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 77 through 83 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

MARK, CYNTHIA, et al.,

Case No. SX-15-CV-0853

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-11 are factual averments regarding the Plaintiffs, (lead Plaintiff born 5/5/1973, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 12-32 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 16, 31 and 32. As to those, SCRG admits as to paragraph 16 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 31 and 32, but denies, as to paragraph 32, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 68 through 74 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

TECHEIRA, NELDINE, et al.,

Case No. SX-15-CV-0854

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-9 are factual averments regarding the Plaintiffs, (lead Plaintiff born 7/22/1945, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 10-30 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 14, 29 and 30. As to those, SCRG admits as to paragraph 14 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 29 and 30, but denies, as to paragraph 30, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 67 through 73 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

WORRELL, JENNIFER, et al.,

Case No. SX-15-CV-0855

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-11 are factual averments regarding the Plaintiffs, (lead Plaintiff born 1/7/1960, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 12-32 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 16, 31 and 32. As to those, SCRG admits as to paragraph 16 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 31 and 32, but denies, as to paragraph 32, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 71 through 77 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

DAVIS, MERCEDES, et al.,

Case No. SX-15-CV-0856

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-9 are factual averments regarding the Plaintiffs, (lead Plaintiff born 11/21/1951, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 10-30 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 14, 29 and 30. As to those, SCRG admits as to paragraph 14 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 29 and 30, but denies, as to paragraph 30, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 68 through 74 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

RODRIGUEZ, ZULMA NEREIDA, et al.,

Case No. SX-15-CV-0857

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-9 are factual averments regarding the Plaintiffs, (lead Plaintiff born 1/27/1962, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 10-30 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 14, 29 and 30. As to those, SCRG admits as to paragraph 14 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 29 and 30, but denies, as to paragraph 30, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 68 through 74 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

GARCIA, MAUREEN, et al.,

Case No. SX-15-CV-0858

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-9 are factual averments regarding the Plaintiffs, (lead Plaintiff born 3/13/1955, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 10-30 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 14, 29 and 30. As to those, SCRG admits as to paragraph 14 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 29 and 30, but denies, as to paragraph 30, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 68 through 74 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

RENTAS, EUGENIA, et al.,

Case No. SX-15-CV-0859

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-9 are factual averments regarding the Plaintiffs, (lead Plaintiff born 11/15/1922, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 10-30 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 14, 29 and 30. As to those, SCRG admits as to paragraph 14 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 29 and 30, but denies, as to paragraph 30, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 68 through 74 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

FREDERICK-WALKER, OCTAVIA AGATA, et al.,

Case No. SX-15-CV-0860

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-9 are factual averments regarding the Plaintiffs, (lead Plaintiff born 10/11/1943, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 10-30 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 14, 29 and 30. As to those, SCRG admits as to paragraph 14 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 29 and 30, but denies, as to paragraph 30, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 66 through 72 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

SALDANA, MARCO A., et al.,

Case No. SX-15-CV-0861

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-8 are factual averments regarding the Plaintiffs, (lead Plaintiff born 4/2/1973, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 9-29 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 13, 28 and 29. As to those, SCRG admits as to paragraph 13 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 28 and 29, but denies, as to paragraph 29, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 66 through 72 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

DELACRUZ, JACQUELINE M., et al.,

Case No. SX-15-CV-0862

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-9 are factual averments regarding the Plaintiffs, (lead Plaintiff born 4/13/1983, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 10-30 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 14, 29 and 30. As to those, SCRG admits as to paragraph 14 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 29 and 30, but denies, as to paragraph 30, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 68 through 74 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

SYLVESTER, EUSTACE B., et al.,

Case No. SX-15-CV-0863

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-11 are factual averments regarding the Plaintiffs, (lead Plaintiff born 6/21/1968, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 12-32 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 16, 31 and 32. As to those, SCRG admits as to paragraph 16 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 31 and 32, but denies, as to paragraph 32, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 71 through 77 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

RIVERA, NANCY I, et al.,

Case No. SX-15-CV-0864

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-11 are factual averments regarding the Plaintiffs, (lead Plaintiff born 1/27/1974, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 12-32 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 16, 31 and 32. As to those, SCRG admits as to paragraph 16 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 31 and 32, but denies, as to paragraph 32, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 71 through 77 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

DENIS, MATTHEW, et al.,

Case No. SX-15-CV-0865

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-9 are factual averments regarding the Plaintiffs, (lead Plaintiff born 4/18/1973, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 10-30 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 14, 29 and 30. As to those, SCRG admits as to paragraph 14 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 29 and 30, but denies, as to paragraph 30, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 66 through 72 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

FELIX-DAVIS, GLADYS, et al.,

Case No. SX-15-CV-0866

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-9 are factual averments regarding the Plaintiffs, (lead Plaintiff born 4/28/1976, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 10-30 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 14, 29 and 30. As to those, SCRG admits as to paragraph 14 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 29 and 30, but denies, as to paragraph 30, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 68 through 74 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

AUGUSTE, OSWALD, et al.,

Case No. SX-15-CV-0867

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-9 are factual averments regarding the Plaintiffs, (lead Plaintiff born 3/7/1945, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 10-30 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 14, 29 and 30. As to those, SCRG admits as to paragraph 14 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 29 and 30, but denies, as to paragraph 30, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 68 through 74 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

RODRIGUEZ, MARIA, et al.,

Case No. SX-15-CV-0868

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-9 are factual averments regarding the Plaintiffs, (lead Plaintiff born 3/14/1957, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 10-30 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 14, 29 and 30. As to those, SCRG admits as to paragraph 14 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 29 and 30, but denies, as to paragraph 30, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 68 through 74 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

PAULINA, PEDRO O.S., et al.,

Case No. SX-15-CV-0869

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-11 are factual averments regarding the Plaintiffs, (lead Plaintiff born 1/20/1952, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 12-32 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 16, 31 and 32. As to those, SCRG admits as to paragraph 16 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 31 and 32, but denies, as to paragraph 32, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 68 through 74 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

ABRAHAM, PATRICK, et al.,

Case No. SX-15-CV-0870

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-10 are factual averments regarding the Plaintiffs, (lead Plaintiff born 3/15/1939, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 11-31 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 15, 30 and 31. As to those, SCRG admits as to paragraph 15 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 30 and 31, but denies, as to paragraph 31, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 67 through 73 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

ACOSTA, TOMAS, et al.,

Case No. SX-15-CV-0871

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-12 are factual averments regarding the Plaintiffs, (lead Plaintiff born 10/2/1960, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 13-33 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 17, 32 and 33. As to those, SCRG admits as to paragraph 17 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 32 and 33, but denies, as to paragraph 33, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 71 through 77 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

HASSELL, LORRENIE, et al.,

Case No. SX-15-CV-0872

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-9 are factual averments regarding the Plaintiffs, (lead Plaintiff born 11/3/1954, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 10-30 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 14, 29 and 30. As to those, SCRG admits as to paragraph 14 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 29 and 30, but denies, as to paragraph 30, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 66 through 72 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

FERDINAND, MATHILDA, et al.,

Case No. SX-15-CV-0873

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-13 are factual averments regarding the Plaintiffs, (lead Plaintiff born 2/26/1960, 4 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 14-34 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 18, 33 and 34. As to those, SCRG admits as to paragraph 18 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 33 and 34, but denies, as to paragraph 34, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 74 through 80 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

HERRERA, MILDA L., et al.,

Case No. SX-15-CV-0874

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-14 are factual averments regarding the Plaintiffs, (lead Plaintiff born 10/7/1961, 4 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 15-35 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 19, 34 and 35. As to those, SCRG admits as to paragraph 19 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 34 and 35, but denies, as to paragraph 35, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 75 through 81 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

SANES, VICENTA,

Case No. SX-15-CV-0875

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 4/22/1933), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 64 through 70 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

HERRERA, JANET, et al.,

Case No. SX-15-CV-0876

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-11 are factual averments regarding the Plaintiffs, (lead Plaintiff born 3/2/1968, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 12-32 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 16, 31 and 32. As to those, SCRG admits as to paragraph 16 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 31 and 32, but denies, as to paragraph 32, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 71 through 77 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

RIVERA, SANDRO, et al.,

Case No. SX-15-CV-0877

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-10 are factual averments regarding the Plaintiffs, (lead Plaintiff born 6/17/1969, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 11-31 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 15, 30 and 31. As to those, SCRG admits as to paragraph 15 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 30 and 31, but denies, as to paragraph 31, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 67 through 73 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

BERRIOS, AMARILIS, et al.,

Case No. SX-15-CV-0878

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-13 are factual averments regarding the Plaintiffs, (lead Plaintiff born 3/12/1972, 4 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 14-34 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 18, 33 and 34. As to those, SCRG admits as to paragraph 18 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 33 and 34, but denies, as to paragraph 34, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 71 through 77 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

CARABALLO, JOSEPH A., SR., et al.,

Case No. SX-15-CV-0879

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-11 are factual averments regarding the Plaintiffs, (lead Plaintiff born 5/6/1971, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 12-32 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 16, 31 and 32. As to those, SCRG admits as to paragraph 16 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 31 and 32, but denies, as to paragraph 32, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 71 through 77 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

JOSEPH, ETHLA, et al.,

Case No. SX-15-CV-0880

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-9 are factual averments regarding the Plaintiffs, (lead Plaintiff born 3/15/1947, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 10-30 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 14, 29 and 30. As to those, SCRG admits as to paragraph 14 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 29 and 30, but denies, as to paragraph 30, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 66 through 72 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

GARCIA, REYNALDO, et al.,

Case No. SX-15-CV-0881

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-10 are factual averments regarding the Plaintiffs, (lead Plaintiff born 8/22/1958, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 11-31 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 15, 30 and 31. As to those, SCRG admits as to paragraph 15 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 30 and 31, but denies, as to paragraph 31, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 67 through 73 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

GREENAWAY, VERONICA,

Plaintiff,

v.

Case No. SX-15-CV-0882

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 10/16/1932), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 64 through 70 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

GONZALEZ, NANCY MELENDEZ, et al.,

Case No. SX-15-CV-0883

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-12 are factual averments regarding the Plaintiffs, (lead Plaintiff born 5/19/1963, 4 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 13-33 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 17, 32 and 33. As to those, SCRG admits as to paragraph 17 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 32 and 33, but denies, as to paragraph 33, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 67 through 73 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

TAYLOR, DEBBIE, et al.,

Case No. SX-15-CV-0884

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-12 are factual averments regarding the Plaintiffs, (lead Plaintiff born 4/11/1967, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 13-33 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 17, 32 and 33. As to those, SCRG admits as to paragraph 17 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 32 and 33, but denies, as to paragraph 33, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 72 through 78 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

MATTHEW, ESTINE RYAN, et al.,

Case No. SX-15-CV-0885

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-9 are factual averments regarding the Plaintiffs, (lead Plaintiff born 2/5/1958, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 10-30 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 14, 29 and 30. As to those, SCRG admits as to paragraph 14 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 29 and 30, but denies, as to paragraph 30, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 68 through 74 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

BERKITT, LUDGER JOACHIM, et al.,

Case No. SX-15-CV-0886

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-11 are factual averments regarding the Plaintiffs, (lead Plaintiff born 3/29/1943, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 12-32 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 16, 31 and 32. As to those, SCRG admits as to paragraph 16 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 31 and 32, but denies, as to paragraph 32, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 69 through 75 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

MIRANDA, SARA A., et al.,

Case No. SX-15-CV-0887

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-8 are factual averments regarding the Plaintiffs, (lead Plaintiff born 2/8/1947, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 9-29 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 13, 28 and 29. As to those, SCRG admits as to paragraph 13 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 28 and 29, but denies, as to paragraph 29, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 67 through 73 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

CARRASQUILLO, AMPARO, et al.,

Case No. SX-15-CV-0888

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-14 are factual averments regarding the Plaintiffs, (lead Plaintiff born 3/5/1963, 4 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 15-35 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 19, 34 and 35. As to those, SCRG admits as to paragraph 19 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 34 and 35, but denies, as to paragraph 35, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 75 through 81 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

DUCREAY, SR., ISAIAH, et al.,

Case No. SX-15-CV-0889

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-10 are factual averments regarding the Plaintiffs, (lead Plaintiff born 8/5/1962, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 11-31 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 15, 30 and 31. As to those, SCRG admits as to paragraph 15 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 30 and 31, but denies, as to paragraph 31, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 67 through 73 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

MAXWELL, WELDON J.,

Case No. SX-15-CV-0890

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 9/23/1946), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 64 through 70 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

LOPEZ, MYRNA, et al.,

Case No. SX-15-CV-0891

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-18 are factual averments regarding the Plaintiffs, (lead Plaintiff born 2/17/1951, 7 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 19-39 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 23, 38 and 39. As to those, SCRG admits as to paragraph 23 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 38 and 39, but denies, as to paragraph 39, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 82 through 88 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

CASTELLANO, ACELIA G, et al.,

Case No. SX-15-CV-0892

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-15 are factual averments regarding the Plaintiffs, (lead Plaintiff born 5/21/1945, 5 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 16-36 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 20, 35 and 36. As to those, SCRG admits as to paragraph 20 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 35 and 36, but denies, as to paragraph 36, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 77 through 83 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

RODRIGUEZ, EDWIN, et al.,

Case No. SX-15-CV-0893

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-12 are factual averments regarding the Plaintiffs, (lead Plaintiff born 7/27/1959, 4 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 13-33 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 17, 32 and 33. As to those, SCRG admits as to paragraph 17 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 32 and 33, but denies, as to paragraph 33, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 73 through 79 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

ROSA, LEONARDO RIVERA, et al.,

Case No. SX-15-CV-0894

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-10 are factual averments regarding the Plaintiffs, (lead Plaintiff born 3/8/1957, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 11-31 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 15, 30 and 31. As to those, SCRG admits as to paragraph 15 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 30 and 31, but denies, as to paragraph 31, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 70 through 76 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

BOULOGNE, EMILY, et al.,

Case No. SX-15-CV-0895

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-11 are factual averments regarding the Plaintiffs, (lead Plaintiff born 2/20/1978, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 12-32 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 16, 31 and 32. As to those, SCRG admits as to paragraph 16 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 31 and 32, but denies, as to paragraph 32, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 71 through 77 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

ALCANTARA, MILAGRO BELTRES, et al.,

Case No. SX-15-CV-0896

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-9 are factual averments regarding the Plaintiffs, (lead Plaintiff born 11/10/1949, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 10-30 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 14, 29 and 30. As to those, SCRG admits as to paragraph 14 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 29 and 30, but denies, as to paragraph 30, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 68 through 74 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

SALDANA, ALICIA, et al.,

Case No. SX-15-CV-0897

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-14 are factual averments regarding the Plaintiffs, (lead Plaintiff born 6/15/1927, 4 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 15-35 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 19, 34 and 35. As to those, SCRG admits as to paragraph 19 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 34 and 35, but denies, as to paragraph 35, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 71 through 77 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

LEO, MARY THERESA, et al.,

Case No. SX-15-CV-0898

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-9 are factual averments regarding the Plaintiffs, (lead Plaintiff born 8/4/1951, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 10-30 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 14, 29 and 30. As to those, SCRG admits as to paragraph 14 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 29 and 30, but denies, as to paragraph 30, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 68 through 74 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

SOTO, LUIS M. SR., et al.,

Case No. SX-15-CV-0899

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-11 are factual averments regarding the Plaintiffs, (lead Plaintiff born 6/21/1967, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 12-32 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 16, 31 and 32. As to those, SCRG admits as to paragraph 16 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 31 and 32, but denies, as to paragraph 32, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 66 through 72 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

ACOSTA, JOSE, et al.,

Case No. SX-15-CV-0900

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-10 are factual averments regarding the Plaintiffs, (lead Plaintiff born 6/30/1955, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 11-31 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 15, 30 and 31. As to those, SCRG admits as to paragraph 15 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 30 and 31, but denies, as to paragraph 31, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 69 through 75 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

DIAZ, ZAIDA, et al.,

Case No. SX-15-CV-0901

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-14 are factual averments regarding the Plaintiffs, (lead Plaintiff born 1/29/1957, 4 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 15-35 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 19, 34 and 35. As to those, SCRG admits as to paragraph 19 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 34 and 35, but denies, as to paragraph 35, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 75 through 81 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

BATTISTE, THELMA, et al.,

Case No. SX-15-CV-0902

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-16 are factual averments regarding the Plaintiffs, (lead Plaintiff born 10/30/1938, 5 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 17-37 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 21, 36 and 37. As to those, SCRG admits as to paragraph 21 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 36 and 37, but denies, as to paragraph 37, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 78 through 84 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

ARROYO, PAULA, et al.,

Case No. SX-15-CV-0903

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-17 are factual averments regarding the Plaintiffs, (lead Plaintiff born 8/11/1949, 5 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 18-38 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 22, 37 and 38. As to those, SCRG admits as to paragraph 22 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 37 and 38, but denies, as to paragraph 38, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 79 through 85 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

ALOYO, VIOLET A., et al.,

Case No. SX-15-CV-0904

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-14 are factual averments regarding the Plaintiffs, (lead Plaintiff born 12/31/1947, 5 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 15-35 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 19, 34 and 35. As to those, SCRG admits as to paragraph 19 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 34 and 35, but denies, as to paragraph 35, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 72 through 78 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

WILLIAMS, CLAYTON, et al.,

Case No. SX-15-CV-0905

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-9 are factual averments regarding the Plaintiffs, (lead Plaintiff born 8/14/1939, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 10-30 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 14, 29 and 30. As to those, SCRG admits as to paragraph 14 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 29 and 30, but denies, as to paragraph 30, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 68 through 74 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

VARGAS, BLANCA CRUZ, et al.,

Case No. SX-15-CV-0906

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-11 are factual averments regarding the Plaintiffs, (lead Plaintiff born 4/28/1941, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 12-32 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 16, 31 and 32. As to those, SCRG admits as to paragraph 16 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 31 and 32, but denies, as to paragraph 32, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 71 through 77 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

BERMUDEZ, AGUEDA, et al.,

Case No. SX-15-CV-0907

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-9 are factual averments regarding the Plaintiffs, (lead Plaintiff born 3/29/2029, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 10-30 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 14, 29 and 30. As to those, SCRG admits as to paragraph 14 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 29 and 30, but denies, as to paragraph 30, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 68 through 74 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

BOULOGNE, EDILIA RODRIGUEZ, et al.,

Case No. SX-15-CV-0908

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-11 are factual averments regarding the Plaintiffs, (lead Plaintiff born 3/16/1970, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 12-32 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 16, 31 and 32. As to those, SCRG admits as to paragraph 16 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 31 and 32, but denies, as to paragraph 32, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 68 through 74 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

CHASSANG, VITALIENNE, et al.,

Case No. SX-15-CV-0909

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-13 are factual averments regarding the Plaintiffs, (lead Plaintiff born 9/9/1945, 4 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 14-34 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 18, 33 and 34. As to those, SCRG admits as to paragraph 18 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 33 and 34, but denies, as to paragraph 34, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 74 through 80 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

TORRES, HERMINIO, et al.,

Case No. SX-15-CV-0910

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-14 are factual averments regarding the Plaintiffs, (lead Plaintiff born 5/20/1931, 4 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 15-35 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 19, 34 and 35. As to those, SCRG admits as to paragraph 19 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 34 and 35, but denies, as to paragraph 35, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 71 through 77 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

DOCTRINE, JOSEPH, et al.,

Case No. SX-15-CV-0911

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-9 are factual averments regarding the Plaintiffs, (lead Plaintiff born 10/29/1944, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 10-30 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 14, 29 and 30. As to those, SCRG admits as to paragraph 14 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 29 and 30, but denies, as to paragraph 30, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 66 through 72 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

BODLEY, CELINA, et al.,

Case No. SX-15-CV-0912

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-12 are factual averments regarding the Plaintiffs, (lead Plaintiff born 1/5/1954, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 13-33 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 17, 32 and 33. As to those, SCRG admits as to paragraph 17 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 32 and 33, but denies, as to paragraph 33, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 72 through 78 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

SYDNEY, ADRIANA VIOLA, et al.,

Case No. SX-15-CV-0913

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-17 are factual averments regarding the Plaintiffs, (lead Plaintiff born 5/22/1964, 6 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 18-38 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 22, 37 and 38. As to those, SCRG admits as to paragraph 22 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 37 and 38, but denies, as to paragraph 38, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 74 through 80 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

RIVERA, MONICA, et al.,

Case No. SX-15-CV-0914

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-16 are factual averments regarding the Plaintiffs, (lead Plaintiff born 1/21/1973, 5 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 17-37 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 21, 36 and 37. As to those, SCRG admits as to paragraph 21 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 36 and 37, but denies, as to paragraph 37, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 76 through 82 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

RODRIGUEZ, SANDRA MEDINA, et al.,

Case No. SX-15-CV-0915

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-25 are factual averments regarding the Plaintiffs, (lead Plaintiff born 6/19/1976, 9 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 26-46 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 30, 45 and 46. As to those, SCRG admits as to paragraph 30 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 45 and 46, but denies, as to paragraph 46, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 83 through 89 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

DHANOOLAL, FRANCIS, et al.,

Case No. SX-15-CV-0916

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-9 are factual averments regarding the Plaintiffs, (lead Plaintiff born 8/21/1938, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 10-30 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 14, 29 and 30. As to those, SCRG admits as to paragraph 14 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 29 and 30, but denies, as to paragraph 30, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 68 through 74 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

FERDINAND, BRENDA,

Case No. SX-15-CV-0917

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 2/9/1946), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 64 through 70 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

DELANDE, CLEFRYN F., et al.,

Case No. SX-15-CV-0918

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-16 are factual averments regarding the Plaintiffs, (lead Plaintiff born 5/5/1954, 6 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 17-37 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 21, 36 and 37. As to those, SCRG admits as to paragraph 21 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 36 and 37, but denies, as to paragraph 37, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 74 through 80 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

ST. BRICE, AGATHA, et al.,

Case No. SX-15-CV-0919

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-18 are factual averments regarding the Plaintiffs, (lead Plaintiff born 7/18/1974, 7 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 19-39 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 23, 38 and 39. As to those, SCRG admits as to paragraph 23 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 38 and 39, but denies, as to paragraph 39, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 78 through 84 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

GILBERT, SCOTT, et al.,

Case No. SX-15-CV-0920

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-15 are factual averments regarding the Plaintiffs, (lead Plaintiff born 9/19/1956, 5 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 16-36 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 20, 35 and 36. As to those, SCRG admits as to paragraph 20 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 35 and 36, but denies, as to paragraph 36, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 73 through 79 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

COLON, JULIO D., et al.,

Case No. SX-15-CV-0921

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-10 are factual averments regarding the Plaintiffs, (lead Plaintiff born 6/9/1973, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 11-31 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 15, 30 and 31. As to those, SCRG admits as to paragraph 15 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 30 and 31, but denies, as to paragraph 31, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 69 through 75 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

JOSEPH, BRENDAGAIL, et al.,

Case No. SX-15-CV-0922

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-9 are factual averments regarding the Plaintiffs, (lead Plaintiff born 10/10/1950, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 10-30 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 14, 29 and 30. As to those, SCRG admits as to paragraph 14 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 29 and 30, but denies, as to paragraph 30, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 68 through 74 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

COLON, VIDALINA, et al.,

Case No. SX-15-CV-0923

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-14 are factual averments regarding the Plaintiffs, (lead Plaintiff born 4/23/1972, 5 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 15-35 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 19, 34 and 35. As to those, SCRG admits as to paragraph 19 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 34 and 35, but denies, as to paragraph 35, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 72 through 78 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

VICTOR, COSMOS M., et al.,

Case No. SX-15-CV-0924

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-9 are factual averments regarding the Plaintiffs, (lead Plaintiff born 2/18/1941, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 10-30 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 14, 29 and 30. As to those, SCRG admits as to paragraph 14 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 29 and 30, but denies, as to paragraph 30, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 66 through 72 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

ARJUNE, KENNETH, et al.,

Case No. SX-15-CV-0925

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-15 are factual averments regarding the Plaintiffs, (lead Plaintiff born 12/1/1952, 5 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 16-36 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 20, 35 and 36. As to those, SCRG admits as to paragraph 20 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 35 and 36, but denies, as to paragraph 36, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 72 through 78 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

ENCARNACION, CARMEN, et al.,

Case No. SX-15-CV-0926

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-18 are factual averments regarding the Plaintiffs, (lead Plaintiff born 2/17/1976, 6 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 19-39 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 23, 38 and 39. As to those, SCRG admits as to paragraph 23 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 38 and 39, but denies, as to paragraph 39, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 79 through 85 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

GILBERT, INGRID, et al.,

Case No. SX-15-CV-0927

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-13 are factual averments regarding the Plaintiffs, (lead Plaintiff born 8/10/1952, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 14-34 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 18, 33 and 34. As to those, SCRG admits as to paragraph 18 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 33 and 34, but denies, as to paragraph 34, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 71 through 78 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

VARGAS, WANDA I., et al.,

Case No. SX-15-CV-0928

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-14 are factual averments regarding the Plaintiffs, (lead Plaintiff born 6/4/1968, 5 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 15-35 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 19, 34 and 35. As to those, SCRG admits as to paragraph 19 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 34 and 35, but denies, as to paragraph 35, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 75 through 81 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

DESORMEAUX, SANDRA, et al.,

Case No. SX-15-CV-0929

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-9 are factual averments regarding the Plaintiffs, (lead Plaintiff born 10/29/1959, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 10-30 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 14, 29 and 30. As to those, SCRG admits as to paragraph 14 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 29 and 30, but denies, as to paragraph 30, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 68 through 74 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

THOMAS, MARSHA FLAVIEN, et al.,

Case No. SX-15-CV-0930

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-12 are factual averments regarding the Plaintiffs, (lead Plaintiff born 5/14/1970, 4 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 13-33 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 17, 32 and 33. As to those, SCRG admits as to paragraph 17 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 32 and 33, but denies, as to paragraph 33, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 70 through 76 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

MERCADO, IRMA I., et al.,

Case No. SX-15-CV-0931

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-15 are factual averments regarding the Plaintiffs, (lead Plaintiff born 7/13/1956, 5 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 16-36 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 20, 35 and 36. As to those, SCRG admits as to paragraph 20 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 35 and 36, but denies, as to paragraph 36, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 73 through 79 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

TAVERNIER, RACHAEL A., et al.,

Case No. SX-15-CV-0932

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-18 are factual averments regarding the Plaintiffs, (lead Plaintiff born 12/1/1953, 6 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 19-39 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 23, 38 and 39. As to those, SCRG admits as to paragraph 23 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 38 and 39, but denies, as to paragraph 39, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 75 through 81 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

VEGA, LUZ DELIA, et al.,

Case No. SX-15-CV-0933

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-20 are factual averments regarding the Plaintiffs, (lead Plaintiff born 7/18/1974, 7 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 21-41 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 25, 40 and 41. As to those, SCRG admits as to paragraph 25 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 40 and 41, but denies, as to paragraph 41, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 81 through 87 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

RAMOS, CARMEN, et al.,

Case No. SX-15-CV-0934

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-13 are factual averments regarding the Plaintiffs, (lead Plaintiff born 7/18/1966, 4 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 14-34 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 18, 33 and 34. As to those, SCRG admits as to paragraph 18 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 33 and 34, but denies, as to paragraph 34, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 74 through 80 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

ALDONZA, DAVIDSON B., et al.,

Case No. SX-15-CV-0935

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-16 are factual averments regarding the Plaintiffs, (lead Plaintiff born 1/19/1968, 6 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 17-37 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 21, 36 and 37. As to those, SCRG admits as to paragraph 21 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 36 and 37, but denies, as to paragraph 37, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 75 through 81 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

WILLIAMS, ANDY, et al.,

Case No. SX-15-CV-0936

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-13 are factual averments regarding the Plaintiffs, (lead Plaintiff born 5/10/1974, 4 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 14-34 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 18, 33 and 34. As to those, SCRG admits as to paragraph 18 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 33 and 34, but denies, as to paragraph 34, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 74 through 80 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

BENJAMIN, GILLIUM, et al.,

Case No. SX-15-CV-0937

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-9 are factual averments regarding the Plaintiffs, (lead Plaintiff born 1/10/1945, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 10-30 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 14, 29 and 30. As to those, SCRG admits as to paragraph 14 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 29 and 30, but denies, as to paragraph 30, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 67 through 73 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

ROBLES, ANA MARIA, et al.,

Case No. SX-15-CV-0938

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-21 are factual averments regarding the Plaintiffs, (lead Plaintiff born 5/24/1969, 6 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 22-42 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 26, 41 and 42. As to those, SCRG admits as to paragraph 26 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 41 and 42, but denies, as to paragraph 42, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 83 through 89 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

NURSE, LENNARD, et al.,

Case No. SX-15-CV-0939

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-16 are factual averments regarding the Plaintiffs, (lead Plaintiff born 2/15/1935, 5 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 17-37 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 21, 36 and 37. As to those, SCRG admits as to paragraph 21 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 36 and 37, but denies, as to paragraph 37, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 78 through 84 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

THEOPHIUS, ALITA, et al.,

Case No. SX-15-CV-0940

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-18 are factual averments regarding the Plaintiffs, (lead Plaintiff born 12/2/1950, 6 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 19-39 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 23, 38 and 39. As to those, SCRG admits as to paragraph 23 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 38 and 39, but denies, as to paragraph 39, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 77 through 83 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

BOATSWAIN, ANALITA, et al.,

Case No. SX-15-CV-0941

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-13 are factual averments regarding the Plaintiffs, (lead Plaintiff born 3/16/1952, 4 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 14-34 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 18, 33 and 34. As to those, SCRG admits as to paragraph 18 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 33 and 34, but denies, as to paragraph 34, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 73 through 79 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

RODRIGUEZ, RENALDO, et al.,

Case No. SX-15-CV-0942

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-11 are factual averments regarding the Plaintiffs, (lead Plaintiff born 10/12/1972, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 12-32 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 16, 31 and 32. As to those, SCRG admits as to paragraph 16 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 31 and 32, but denies, as to paragraph 32, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 70 through 76 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

WILLIAMS, ELSA C., et al.,

Case No. SX-15-CV-0943

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-14 are factual averments regarding the Plaintiffs, (lead Plaintiff born 10/10/1966, 5 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 15-35 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 19, 34 and 35. As to those, SCRG admits as to paragraph 19 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 34 and 35, but denies, as to paragraph 35, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 76 through 82 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

WILTSHIRE, EDRIS,

Case No. SX-15-CV-0944

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 3/16/1944), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 64 through 70 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

SALDANA, CARLOS, et al.,

Case No. SX-15-CV-0945

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-14 are factual averments regarding the Plaintiffs, (lead Plaintiff born 12/1/1950, 4 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 15-35 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 19, 34 and 35. As to those, SCRG admits as to paragraph 19 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 34 and 35, but denies, as to paragraph 35, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 73 through 79 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

COLON, EDELMIRO BENITEZ, et al.,

Case No. SX-15-CV-0946

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-15 are factual averments regarding the Plaintiffs, (lead Plaintiff born 8/15/1937, 5 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 16-36 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 20, 35 and 36. As to those, SCRG admits as to paragraph 20 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 35 and 36, but denies, as to paragraph 36, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 73 through 79 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

CRUZ, MARIA J., et al.,

Case No. SX-15-CV-0947

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-15 are factual averments regarding the Plaintiffs, (lead Plaintiff born 1/17/1962, 4 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 16-36 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 20, 35 and 36. As to those, SCRG admits as to paragraph 20 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 35 and 36, but denies, as to paragraph 36, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 72 through 78 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

POLIDORE, CORNELIA, et al.,

Case No. SX-15-CV-0948

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-10 are factual averments regarding the Plaintiffs, (lead Plaintiff born 3/31/1954, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 11-31 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 15, 30 and 31. As to those, SCRG admits as to paragraph 15 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 30 and 31, but denies, as to paragraph 31, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 70 through 76 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

JAMES, INEZ DELVITT,

Case No. SX-15-CV-0949

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 7/20/1954), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 54 through 60 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

MARTINA, DUDLEY G., et al.,

Case No. SX-15-CV-0950

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-9 are factual averments regarding the Plaintiffs, (lead Plaintiff born 10/11/1966, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 10-30 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 14, 29 and 30. As to those, SCRG admits as to paragraph 14 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 29 and 30, but denies, as to paragraph 30, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 68 through 74 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

GONZALEZ, ROLANDO, et al.,

Case No. SX-15-CV-0951

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-12 are factual averments regarding the Plaintiffs, (lead Plaintiff born 11/27/1947, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 13-33 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 17, 32 and 33. As to those, SCRG admits as to paragraph 17 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 32 and 33, but denies, as to paragraph 33, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 69 through 75 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

HENRY, DONNA THOMAS, et al.,

Case No. SX-15-CV-0952

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-11 are factual averments regarding the Plaintiffs, (lead Plaintiff born 9/26/1960, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 12-32 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 16, 31 and 32. As to those, SCRG admits as to paragraph 16 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 31 and 32, but denies, as to paragraph 32, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 71 through 77 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

MIRANDA, ANGEL LUIS, et al.,

Case No. SX-15-CV-0953

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-13 are factual averments regarding the Plaintiffs, (lead Plaintiff born 3/24/1965, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 14-34 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 18, 33 and 34. As to those, SCRG admits as to paragraph 18 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 33 and 34, but denies, as to paragraph 34, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 72 through 78 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

ALPHONSE, ANASTASIA, et al.,

Case No. SX-15-CV-0954

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-11 are factual averments regarding the Plaintiffs, (lead Plaintiff born 3/18/1947, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 12-32 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 16, 31 and 32. As to those, SCRG admits as to paragraph 16 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 31 and 32, but denies, as to paragraph 32, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 71 through 77 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

VELAZQUEZ, OLGA RIVERA, et al.,

Case No. SX-15-CV-0955

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-14 are factual averments regarding the Plaintiffs, (lead Plaintiff born 5/23/1956, 4 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 15-35 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 19, 34 and 35. As to those, SCRG admits as to paragraph 19 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 34 and 35, but denies, as to paragraph 35, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 75 through 81 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

RODRIGUEZ, LUZ ENEIDA, et al.,

Case No. SX-15-CV-0956

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-18 are factual averments regarding the Plaintiffs, (lead Plaintiff born 2/25/1948, 6 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 19-39 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 23, 38 and 39. As to those, SCRG admits as to paragraph 23 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 38 and 39, but denies, as to paragraph 39, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 75 through 81 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

CRUZ, CRISTINO, et al.,

Case No. SX-15-CV-0957

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-9 are factual averments regarding the Plaintiffs, (lead Plaintiff born 3/13/1952, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 10-30 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 14, 29 and 30. As to those, SCRG admits as to paragraph 14 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 29 and 30, but denies, as to paragraph 30, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 67 through 73 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

ORTIZ, FELIPE, et al.,

Case No. SX-15-CV-0958

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-10 are factual averments regarding the Plaintiffs, (lead Plaintiff born 8/25/1948, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 11-31 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 15, 30 and 31. As to those, SCRG admits as to paragraph 15 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 30 and 31, but denies, as to paragraph 31, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 69 through 75 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

CLOVIS, CELESTIN, et al.,

Case No. SX-15-CV-0959

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-9 are factual averments regarding the Plaintiffs, (lead Plaintiff born 4/11/1944, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 10-30 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 14, 29 and 30. As to those, SCRG admits as to paragraph 14 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 29 and 30, but denies, as to paragraph 30, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 66 through 72 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

ROYER, FLORA A.,

Case No. SX-15-CV-0960

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 11/10/1942), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 64 through 70 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

BERRIOS, LUCY PEREZ, et al.,

Case No. SX-15-CV-0961

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-9 are factual averments regarding the Plaintiffs, (lead Plaintiff born 8/2/1959, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 10-30 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 14, 29 and 30. As to those, SCRG admits as to paragraph 14 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 29 and 30, but denies, as to paragraph 30, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 68 through 74 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

CHARLES, FRANCIS E., et al.,

Case No. SX-15-CV-0962

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-9 are factual averments regarding the Plaintiffs, (lead Plaintiff born 12/2/1940, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 10-30 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 14, 29 and 30. As to those, SCRG admits as to paragraph 14 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 29 and 30, but denies, as to paragraph 30, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 67 through 73 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

VLAUN, RAMON G., et al.,

Case No. SX-15-CV-0963

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-16 are factual averments regarding the Plaintiffs, (lead Plaintiff born 5/8/1953, 5 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 17-37 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 21, 36 and 37. As to those, SCRG admits as to paragraph 21 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 36 and 37, but denies, as to paragraph 37, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 77 through 83 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

WILTSHIRE, ETHELBERT, et al.,

Case No. SX-15-CV-0964

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-11 are factual averments regarding the Plaintiffs, (lead Plaintiff born 6/23/1942, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 12-32 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 16, 31 and 32. As to those, SCRG admits as to paragraph 16 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 31 and 32, but denies, as to paragraph 32, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 68 through 74 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

CLARKE, TUWANDA, et al.,

Case No. SX-15-CV-0965

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-24 are factual averments regarding the Plaintiffs, (lead Plaintiff born 12/11/1972, 7 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 25-45 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 29, 44 and 45. As to those, SCRG admits as to paragraph 29 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 44 and 45, but denies, as to paragraph 45, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 88 through 94 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

SOTO, LUIS,

Case No. SX-15-CV-0966

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 7/13/1972), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 64 through 70 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

MOE, LUCILLE L., et al.,

Case No. SX-15-CV-0967

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-11 are factual averments regarding the Plaintiffs, (lead Plaintiff born 6/29/1942, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 12-32 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 16, 31 and 32. As to those, SCRG admits as to paragraph 16 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 31 and 32, but denies, as to paragraph 32, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 70 through 76 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

PARRILLA, SONIA M., et al.,

Case No. SX-15-CV-0968

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-23 are factual averments regarding the Plaintiffs, (lead Plaintiff born 12/11/1954, 9 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 24-44 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 28, 43 and 44. As to those, SCRG admits as to paragraph 28 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 43 and 44, but denies, as to paragraph 44, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 81 through 87 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

GREENIDGE, AGNES A., et al.,

Case No. SX-15-CV-0969

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-9 are factual averments regarding the Plaintiffs, (lead Plaintiff born 11/11/1950, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 10-30 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 14, 29 and 30. As to those, SCRG admits as to paragraph 14 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 29 and 30, but denies, as to paragraph 30, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 67 through 73 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

GARCIA, LUIS RIVERA,

Case No. SX-15-CV-0970

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 7/17/1943), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 63 through 69 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

JONES, EMILIA, et al.,

Case No. SX-15-CV-0971

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-9 are factual averments regarding the Plaintiffs, (lead Plaintiff born 2/12/1959, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 10-30 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 14, 29 and 30. As to those, SCRG admits as to paragraph 14 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 29 and 30, but denies, as to paragraph 30, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 68 through 74 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

DESOUZA, SYLVANIA, et al.,

Case No. SX-15-CV-0972

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-9 are factual averments regarding the Plaintiffs, (lead Plaintiff born 12/28/1943, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 10-30 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 14, 29 and 30. As to those, SCRG admits as to paragraph 14 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 29 and 30, but denies, as to paragraph 30, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 69 through 75 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

HUTCHINSON, EDMUND,

Case No. SX-15-CV-0973

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 10/19/1939), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 63 through 69 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

WALCOTT, KATHLEEN, et al.,

Case No. SX-15-CV-0974

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-10 are factual averments regarding the Plaintiffs, (lead Plaintiff born 11/28/1956, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 11-31 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 15, 30 and 31. As to those, SCRG admits as to paragraph 15 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 30 and 31, but denies, as to paragraph 31, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 67 through 73 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

DENNIE, MARY P., et al.,

Case No. SX-15-CV-0975

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-14 are factual averments regarding the Plaintiffs, (lead Plaintiff born 3/6/1942, 4 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 15-35 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 19, 34 and 35. As to those, SCRG admits as to paragraph 19 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 34 and 35, but denies, as to paragraph 35, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 71 through 77 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

SANES, NITZA Y., et al.,

Case No. SX-15-CV-0976

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-9 are factual averments regarding the Plaintiffs, (lead Plaintiff born 1/8/1995, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 10-30 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 14, 29 and 30. As to those, SCRG admits as to paragraph 14 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 29 and 30, but denies, as to paragraph 30, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 68 through 74 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

ORTIZ, JOSE SR., et al.,

Case No. SX-15-CV-0977

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-10 are factual averments regarding the Plaintiffs, (lead Plaintiff born 8/20/1952, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 11-31 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 15, 30 and 31. As to those, SCRG admits as to paragraph 15 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 30 and 31, but denies, as to paragraph 31, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 67 through 73 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

CASTILLO, DOMINGA, et al.,

Case No. SX-15-CV-0978

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-10 are factual averments regarding the Plaintiffs, (lead Plaintiff born 7/11/1965, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 11-31 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 15, 30 and 31. As to those, SCRG admits as to paragraph 15 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 30 and 31, but denies, as to paragraph 31, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 70 through 76 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

DANIEL, FRANCIS, et al.,

Case No. SX-15-CV-0979

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-14 are factual averments regarding the Plaintiffs, (lead Plaintiff born 8/9/1949, 5 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 15-35 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 19, 34 and 35. As to those, SCRG admits as to paragraph 19 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 34 and 35, but denies, as to paragraph 35, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 71 through 77 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

FRANCIS, PATRICIA,

Case No. SX-15-CV-0980

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 5/16/1953), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 65 through 71 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

ROBLES, JOSEFINA LETTY, et al.,

Case No. SX-15-CV-0981

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-10 are factual averments regarding the Plaintiffs, (lead Plaintiff born 3/18/1977, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 11-31 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 15, 30 and 31. As to those, SCRG admits as to paragraph 15 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 30 and 31, but denies, as to paragraph 31, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 70 through 76 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

BYRD, JANNETT G., et al.,

Case No. SX-15-CV-0982

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-10 are factual averments regarding the Plaintiffs, (lead Plaintiff born 9/9/1951, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 11-31 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 15, 30 and 31. As to those, SCRG admits as to paragraph 15 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 30 and 31, but denies, as to paragraph 31, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 67 through 73 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

LOUISY, JULITA, et al.,

Case No. SX-15-CV-0983

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-12 are factual averments regarding the Plaintiffs, (lead Plaintiff born 8/3/1951, 4 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 13-33 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 17, 32 and 33. As to those, SCRG admits as to paragraph 17 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 32 and 33, but denies, as to paragraph 33, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 73 through 79 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

MORTON, JULIAN E., et al.,

Case No. SX-15-CV-0984

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-10 are factual averments regarding the Plaintiffs, (lead Plaintiff born 11/18/1968, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 11-31 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 15, 30 and 31. As to those, SCRG admits as to paragraph 15 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 30 and 31, but denies, as to paragraph 31, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 67 through 73 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

JARVIS, CATHERINE R., et al.,

Case No. SX-15-CV-0985

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-12 are factual averments regarding the Plaintiffs, (lead Plaintiff born 10/2/1952, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 13-33 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 17, 32 and 33. As to those, SCRG admits as to paragraph 17 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 32 and 33, but denies, as to paragraph 33, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 70 through 76 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

SUBALIER, JULISA,

Case No. SX-15-CV-0986

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 1/20/1984), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 64 through 70 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

BEAUPIERRE, HENRY,

Case No. SX-15-CV-0987

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 2/26/1949), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 64 through 70 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

JOHN-BAPTISTE, JULIANNA, et al.,

Case No. SX-15-CV-0988

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-14 are factual averments regarding the Plaintiffs, (lead Plaintiff born 2/17/1955, 4 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 15-35 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 19, 34 and 35. As to those, SCRG admits as to paragraph 19 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 34 and 35, but denies, as to paragraph 35, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 74 through 80 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

PIERRE, BERNADINE S., et al.,

Case No. SX-15-CV-0989

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-14 are factual averments regarding the Plaintiffs, (lead Plaintiff born 5/20/1960, 5 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 15-35 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 19, 34 and 35. As to those, SCRG admits as to paragraph 19 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 34 and 35, but denies, as to paragraph 35, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 72 through 78 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

JAMES, BEATRICE S., et al.,

Case No. SX-15-CV-0990

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-11 are factual averments regarding the Plaintiffs, (lead Plaintiff born 7/14/1966, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 12-32 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 16, 31 and 32. As to those, SCRG admits as to paragraph 16 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 31 and 32, but denies, as to paragraph 32, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 69 through 75 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

RISHI-MAHARAJ, SHIRLEY, et al.,

Case No. SX-15-CV-0991

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-9 are factual averments regarding the Plaintiffs, (lead Plaintiff born 2/18/1943, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 10-30 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 14, 29 and 30. As to those, SCRG admits as to paragraph 14 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 29 and 30, but denies, as to paragraph 30, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 68 through 74 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

EVELYN, SYLVIA,

Case No. SX-15-CV-0992

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 5/8/1950), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 54 through 60 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

LEONCE, HERBERT, et al.,

Case No. SX-15-CV-0993

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-9 are factual averments regarding the Plaintiffs, (lead Plaintiff born 12/4/1941, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 10-30 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 14, 29 and 30. As to those, SCRG admits as to paragraph 14 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 29 and 30, but denies, as to paragraph 30, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 68 through 74 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

TORRES, CATTY D., et al.,

Case No. SX-15-CV-0994

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-16 are factual averments regarding the Plaintiffs, (lead Plaintiff born 6/9/1973, 6 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 17-37 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 21, 36 and 37. As to those, SCRG admits as to paragraph 21 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 36 and 37, but denies, as to paragraph 37, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 79 through 85 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

JOHN, ANNE,

Case No. SX-15-CV-0995

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 7/30/1930), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 65 through 71 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq.
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

MONTANEZ, JUAN R., et al.,

Case No. SX-15-CV-0996

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-21 are factual averments regarding the Plaintiffs, (lead Plaintiff born 12/28/1964, 8 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 22-42 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 26, 41 and 42. As to those, SCRG admits as to paragraph 26 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 41 and 42, but denies, as to paragraph 42, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 80 through 86 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

GRIFFITH, ROSELINE MARY, et al.,

Case No. SX-15-CV-0997

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-9 are factual averments regarding the Plaintiffs, (lead Plaintiff born 8/29/1936, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 10-30 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 14, 29 and 30. As to those, SCRG admits as to paragraph 14 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 29 and 30, but denies, as to paragraph 30, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 66 through 72 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

DAVIS, FENELLA,

Case No. SX-15-CV-0998

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 5/3/1947), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 64 through 70 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

FERDINAND, PEARLINE,

Case No. SX-15-CV-0999

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 3/14/1936), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 64 through 70 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

MCLENE, MARGRET,

Case No. SX-15-CV-1000

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 10/15/1945), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 64 through 70 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

SHERWOOD, JOY, et al.,

Case No. SX-15-CV-1001

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-15 are factual averments regarding the Plaintiffs, (lead Plaintiff born 12/12/1936, 5 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 16-36 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 20, 35 and 36. As to those, SCRG admits as to paragraph 20 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 35 and 36, but denies, as to paragraph 36, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 73 through 79 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

CHARLES, FRANCIS E., et al.,

Case No. SX-15-CV-1002

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-9 are factual averments regarding the Plaintiffs, (lead Plaintiff born 12/2/1940, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 10-30 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 14, 29 and 30. As to those, SCRG admits as to paragraph 14 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 29 and 30, but denies, as to paragraph 30, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 67 through 73 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

ROGERS, ANCELIA, et al.,

Case No. SX-15-CV-1003

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-9 are factual averments regarding the Plaintiffs, (lead Plaintiff born 2/16/1949, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 10-30 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 14, 29 and 30. As to those, SCRG admits as to paragraph 14 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 29 and 30, but denies, as to paragraph 30, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 67 through 73 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

SOTO, DOLORES SANES, et al.,

Case No. SX-15-CV-1004

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-12 are factual averments regarding the Plaintiffs, (lead Plaintiff born 1/19/1956, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 13-33 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 17, 32 and 33. As to those, SCRG admits as to paragraph 17 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 32 and 33, but denies, as to paragraph 33, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 70 through 76 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

ROSA, EDELMIRA DE, et al.,

Case No. SX-15-CV-1005

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-9 are factual averments regarding the Plaintiffs, (lead Plaintiff born 11/21/1967, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 10-30 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 14, 29 and 30. As to those, SCRG admits as to paragraph 14 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 29 and 30, but denies, as to paragraph 30, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 68 through 74 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

DURAND, GWENETH, et al.,

Case No. SX-15-CV-1006

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-12 are factual averments regarding the Plaintiffs, (lead Plaintiff born 5/14/1943, 4 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 13-33 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 17, 32 and 33. As to those, SCRG admits as to paragraph 17 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 32 and 33, but denies, as to paragraph 33, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 70 through 76 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

WARD, LENORE, et al.,

Case No. SX-15-CV-1007

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-9 are factual averments regarding the Plaintiffs, (lead Plaintiff born 5/19/1955, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 10-30 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 14, 29 and 30. As to those, SCRG admits as to paragraph 14 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 29 and 30, but denies, as to paragraph 30, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 67 through 73 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

DOUGLAS, VERNON SR, et al.,

Case No. SX-15-CV-1008

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-17 are factual averments regarding the Plaintiffs, (lead Plaintiff born 10/25/1965, 6 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 18-38 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 22, 37 and 38. As to those, SCRG admits as to paragraph 22 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 37 and 38, but denies, as to paragraph 38, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 77 through 83 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

AZILLE, BERNARD H., et al.,

Case No. SX-15-CV-1009

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-12 are factual averments regarding the Plaintiffs, (lead Plaintiff born 12/15/1945, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 13-33 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 17, 32 and 33. As to those, SCRG admits as to paragraph 17 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 32 and 33, but denies, as to paragraph 33, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 72 through 78 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

RODRIGUEZ, LILLIAN ROSARIO, et al.,

Case No. SX-15-CV-1010

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-14 are factual averments regarding the Plaintiffs, (lead Plaintiff born 3/14/1967, 4 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 15-35 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 19, 34 and 35. As to those, SCRG admits as to paragraph 19 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 34 and 35, but denies, as to paragraph 35, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 71 through 77 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

JAMES, ELEANOR ROSITA, et al.,

Case No. SX-15-CV-1011

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-13 are factual averments regarding the Plaintiffs, (lead Plaintiff born 11/23/1958, 4 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 14-34 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 18, 33 and 34. As to those, SCRG admits as to paragraph 18 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 33 and 34, but denies, as to paragraph 34, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 70 through 76 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

RIVERA, MIRIAM D., et al.,

Case No. SX-15-CV-1012

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-11 are factual averments regarding the Plaintiffs, (lead Plaintiff born 10/25/1940, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 12-32 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 16, 31 and 32. As to those, SCRG admits as to paragraph 16 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 31 and 32, but denies, as to paragraph 32, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 68 through 74 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

ANTHONY, JEROME, et al.,

Case No. SX-15-CV-1013

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-12 are factual averments regarding the Plaintiffs, (lead Plaintiff born 1/30/1975, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 13-33 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 17, 32 and 33. As to those, SCRG admits as to paragraph 17 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 32 and 33, but denies, as to paragraph 33, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 72 through 78 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

AYALA, LIRIA CEPEDA, et al.,

Case No. SX-15-CV-1014

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-19 are factual averments regarding the Plaintiffs, (lead Plaintiff born 6/26/1963, 6 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 20-40 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 24, 39 and 40. As to those, SCRG admits as to paragraph 24 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 39 and 40, but denies, as to paragraph 40, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 81 through 87 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

BERRY, RITA,

Case No. SX-15-CV-1015

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 10/29/1939), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 64 through 70 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

SANTOS, ANGELICA, et al.,

Case No. SX-15-CV-1016

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-9 are factual averments regarding the Plaintiffs, (lead Plaintiff born 8/24/1944, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 10-30 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 14, 29 and 30. As to those, SCRG admits as to paragraph 14 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 29 and 30, but denies, as to paragraph 30, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 66 through 72 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

VAZQUEZ, JOSE E., et al.,

Case No. SX-15-CV-1017

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-10 are factual averments regarding the Plaintiffs, (lead Plaintiff born 5/28/1978, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 11-31 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 15, 30 and 31. As to those, SCRG admits as to paragraph 15 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 30 and 31, but denies, as to paragraph 31, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 67 through 73 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

MALDANADO, JOSE,

Case No. SX-15-CV-1018

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 8/27/1946), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 54 through 60 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

CONNOR, LENNARD I., et al.,

Case No. SX-15-CV-1019

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-9 are factual averments regarding the Plaintiffs, (lead Plaintiff born 10/4/1944, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 10-30 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 14, 29 and 30. As to those, SCRG admits as to paragraph 14 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 29 and 30, but denies, as to paragraph 30, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 68 through 74 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

JAMES, BRENDA M., et al.,

Case No. SX-15-CV-1020

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-12 are factual averments regarding the Plaintiffs, (lead Plaintiff born 11/15/1951, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 13-33 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 17, 32 and 33. As to those, SCRG admits as to paragraph 17 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 32 and 33, but denies, as to paragraph 33, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 72 through 78 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

GUERRA, MARIA D., et al.,

Case No. SX-15-CV-1021

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-16 are factual averments regarding the Plaintiffs, (lead Plaintiff born 5/17/1948, 5 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 17-37 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 21, 36 and 37. As to those, SCRG admits as to paragraph 21 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 36 and 37, but denies, as to paragraph 37, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 73 through 79 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

FELIX, MARA B., et al.,

Case No. SX-15-CV-1022

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-9 are factual averments regarding the Plaintiffs, (lead Plaintiff born 3/31/1980, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 10-30 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 14, 29 and 30. As to those, SCRG admits as to paragraph 14 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 29 and 30, but denies, as to paragraph 30, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 68 through 74 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

CRUZ, AIDA, et al.,

Case No. SX-15-CV-1023

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-9 are factual averments regarding the Plaintiffs, (lead Plaintiff born 9/19/1936, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 10-30 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 14, 29 and 30. As to those, SCRG admits as to paragraph 14 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 29 and 30, but denies, as to paragraph 30, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 66 through 72 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

NAVARRO, CARMEN, et al.,

Case No. SX-15-CV-1024

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-12 are factual averments regarding the Plaintiffs, (lead Plaintiff born 12/8/1953, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 13-33 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 17, 32 and 33. As to those, SCRG admits as to paragraph 17 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 32 and 33, but denies, as to paragraph 33, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 72 through 78 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

MORRIS, SENNET ERSDAIL, et al.,

Case No. SX-15-CV-1025

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-14 are factual averments regarding the Plaintiffs, (lead Plaintiff born 8/23/1952, 4 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 15-35 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 19, 34 and 35. As to those, SCRG admits as to paragraph 19 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 34 and 35, but denies, as to paragraph 35, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 71 through 77 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

RUIZ, LYDIA E., et al.,

Case No. SX-15-CV-1026

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-11 are factual averments regarding the Plaintiffs, (lead Plaintiff born 3/26/1949, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 12-32 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 16, 31 and 32. As to those, SCRG admits as to paragraph 16 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 31 and 32, but denies, as to paragraph 32, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 71 through 77 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

GUADALUPE, MARGARITA, et al.,

Case No. SX-15-CV-1027

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-11 are factual averments regarding the Plaintiffs, (lead Plaintiff born 1/8/1954, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 12-32 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 16, 31 and 32. As to those, SCRG admits as to paragraph 16 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 31 and 32, but denies, as to paragraph 32, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 69 through 75 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

HARRIGAN, FAITH C, et al.,

Case No. SX-15-CV-1028

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-11 are factual averments regarding the Plaintiffs, (lead Plaintiff born 10/21/1956, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 12-32 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 16, 31 and 32. As to those, SCRG admits as to paragraph 16 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 31 and 32, but denies, as to paragraph 32, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 70 through 76 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

PARRILLA, ROCIELA, et al.,

Case No. SX-15-CV-1029

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-9 are factual averments regarding the Plaintiffs, (lead Plaintiff born 7/24/1980, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 10-30 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 14, 29 and 30. As to those, SCRG admits as to paragraph 14 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 29 and 30, but denies, as to paragraph 30, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 67 through 73 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

AMARO, CARMEN M., et al.,

Case No. SX-15-CV-1030

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-13 are factual averments regarding the Plaintiffs, (lead Plaintiff born 1/10/1979, 4 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 14-34 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 18, 33 and 34. As to those, SCRG admits as to paragraph 18 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 33 and 34, but denies, as to paragraph 34, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 70 through 76 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

THOMAS, OLIVET B., et al.,

Case No. SX-15-CV-1031

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-10 are factual averments regarding the Plaintiffs, (lead Plaintiff born 2/1/1958, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 11-31 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 15, 30 and 31. As to those, SCRG admits as to paragraph 15 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 30 and 31, but denies, as to paragraph 31, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 67 through 73 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

DONOVAN, MARY, et al.,

Case No. SX-15-CV-1032

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-13 are factual averments regarding the Plaintiffs, (lead Plaintiff born 3/1/1933, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 14-34 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 18, 33 and 34. As to those, SCRG admits as to paragraph 18 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 33 and 34, but denies, as to paragraph 34, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 70 through 76 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

MITCHELL, FRANCIS, et al.,

Case No. SX-15-CV-1033

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-21 are factual averments regarding the Plaintiffs, (lead Plaintiff born 1/21/1937, 8 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 22-42 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 26, 41 and 42. As to those, SCRG admits as to paragraph 26 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 41 and 42, but denies, as to paragraph 42, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 84 through 90 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

PARRILLA, DELORES I., et al.,

Case No. SX-15-CV-1034

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-12 are factual averments regarding the Plaintiffs, (lead Plaintiff born 11/4/1961, 4 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 13-33 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 17, 32 and 33. As to those, SCRG admits as to paragraph 17 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 32 and 33, but denies, as to paragraph 33, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 72 through 78 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

RIVERA, MIGDALIZ,

Case No. SX-15-CV-1035

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 4/28/1992), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 64 through 70 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

CRUZ, IRMA, et al.,

Case No. SX-15-CV-1036

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-9 are factual averments regarding the Plaintiffs, (lead Plaintiff born 9/21/1952, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 10-30 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 14, 29 and 30. As to those, SCRG admits as to paragraph 14 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 29 and 30, but denies, as to paragraph 30, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 66 through 72 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

SOTO, CRUCITA, et al.,

Case No. SX-15-CV-1037

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-11 are factual averments regarding the Plaintiffs, (lead Plaintiff born 9/30/1959, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 12-32 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 16, 31 and 32. As to those, SCRG admits as to paragraph 16 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 31 and 32, but denies, as to paragraph 32, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 68 through 74 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

RIVERA, BEATRICE, et al.,

Case No. SX-15-CV-1038

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-14 are factual averments regarding the Plaintiffs, (lead Plaintiff born 6/23/1966, 5 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 15-35 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 19, 34 and 35. As to those, SCRG admits as to paragraph 19 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 34 and 35, but denies, as to paragraph 35, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 74 through 80 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

GONZALEZ, VICTORIA, et al.,

Case No. SX-15-CV-1039

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-11 are factual averments regarding the Plaintiffs, (lead Plaintiff born 2/9/1959, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 12-32 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 16, 31 and 32. As to those, SCRG admits as to paragraph 16 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 31 and 32, but denies, as to paragraph 32, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 69 through 75 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

RAMOS, JOSEFINA,

Case No. SX-15-CV-1040

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-5 are factual averments regarding the named Plaintiff, (born 1/3/1951), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 6-26 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 10, 25 and 26. As to those, SCRG admits as to paragraph 10 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 25 and 26, but denies, as set forth in paragraph 26, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 63 through 69 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

BROWN, CATHERINE,

Case No. SX-15-CV-1041

Plaintiff,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-6 are factual averments regarding the named Plaintiff, (born 1/3/1951), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 7-27 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 11, 26 and 27. As to those, SCRG admits as to paragraph 11 it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 26 and 27, but denies, as set forth in paragraph 27, that SCRG has owned or operated a "refinery" -- stating that it is a protected purchaser, under applicable law, of a brownfields site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to this Plaintiff prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 63 through 69 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiff's claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiff's recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiff has failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiff because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiff's claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiff has failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiff.

SEVENTEENTH DEFENSE

17. To the extent Plaintiff seeks to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiff has failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiff is barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiff has accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiff "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiff has failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiff either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiff seeks injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiff's spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiff's Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

MALDONADO, CARMEN P., et al.,

Case No. SX-15-CV-1042

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-15 are factual averments regarding the Plaintiffs, (lead Plaintiff born 7/29/1936, 5 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 16-36 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 20, 35 and 36. As to those, SCRG admits as to paragraph 20 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 35 and 36, but denies, as to paragraph 36, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 76 through 82 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

LEE, PATSY, et al.,

Case No. SX-15-CV-1043

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-12 are factual averments regarding the Plaintiffs, (lead Plaintiff born 5/31/1969, 4 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 13-33 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 17, 32 and 33. As to those, SCRG admits as to paragraph 17 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 32 and 33, but denies, as to paragraph 33, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 70 through 76 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

SAMUEL, MONICA V., et al.,

Case No. SX-15-CV-1044

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-11 are factual averments regarding the Plaintiffs, (lead Plaintiff born 10/4/1948, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 12-32 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 16, 31 and 32. As to those, SCRG admits as to paragraph 16 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 31 and 32, but denies, as to paragraph 32, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 71 through 77 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

CORDERO, CONSUELITA, et al.,

Case No. SX-15-CV-1045

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-13 are factual averments regarding the Plaintiffs, (lead Plaintiff born 9/12/1975, 4 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 14-34 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 18, 33 and 34. As to those, SCRG admits as to paragraph 18 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 33 and 34, but denies, as to paragraph 34, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 74 through 80 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

ROSA, IRIS C., et al.,

Case No. SX-15-CV-1046

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-12 are factual averments regarding the Plaintiffs, (lead Plaintiff born 3/12/1942, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 13-33 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 17, 32 and 33. As to those, SCRG admits as to paragraph 17 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 32 and 33, but denies, as to paragraph 33, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 69 through 75 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

CRUZ, LUZ M., et al.,

Case No. SX-15-CV-1047

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-10 are factual averments regarding the Plaintiffs, (lead Plaintiff born 10/5/1938, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 11-31 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 15, 30 and 31. As to those, SCRG admits as to paragraph 15 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 30 and 31, but denies, as to paragraph 31, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 68 through 74 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

TAPIA, JUAN III, et al.,

Case No. SX-15-CV-1048

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-11 are factual averments regarding the Plaintiffs, (lead Plaintiff born 10/25/1976, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 12-32 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 16, 31 and 32. As to those, SCRG admits as to paragraph 16 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 31 and 32, but denies, as to paragraph 32, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 68 through 74 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

SALDANA, NORMA I., et al.,

Case No. SX-15-CV-1049

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-8 are factual averments regarding the Plaintiffs, (lead Plaintiff born 4/1/1965, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 9-29 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 13, 28 and 29. As to those, SCRG admits as to paragraph 13 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 28 and 29, but denies, as to paragraph 29, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 67 through 73 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

PAYNE-FREEMAN, BASSILIA, et al.,

Case No. SX-15-CV-1050

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-9 are factual averments regarding the Plaintiffs, (lead Plaintiff born 7/17/1948, 2 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 10-30 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 14, 29 and 30. As to those, SCRG admits as to paragraph 14 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 29 and 30, but denies, as to paragraph 30, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 67 through 73 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

HUMPHREYS, IRINE, et al.,

Case No. SX-15-CV-1051

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-13 are factual averments regarding the Plaintiffs, (lead Plaintiff born 4/4/1938, 4 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 14-34 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 18, 33 and 34. As to those, SCRG admits as to paragraph 18 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 33 and 34, but denies, as to paragraph 34, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 74 through 80 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser, and/or a bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

Richard H. Hunter, Esq.
Bruce Cole, Esq.
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com



**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

GILBERT, INGRID, et al.,

Case No. SX-15-CV-927

Plaintiffs,

v.

**ST. CROIX ALUMINA LLC, GLENCORE
INTERNATIONAL AG, ALCOA, GLENCORE, LTD.
f/k/a CLARENDON, LTD., CENTURY ALUMINUM
COMPANY, and ST. CROIX RENAISSANCE
GROUP, LLLP,**

Defendants.

ANSWER

1. Paragraph 1 is denied, as the U.S. District Court dismissed these claims before remanding this case. Moreover, this paragraph contains a jurisdictional averment based on factual information unknown to Defendant, and is therefore further denied.

2. Paragraphs 2-13 are factual averments regarding the Plaintiffs, (lead Plaintiff born 8/10/1952, 3 Plaintiffs in total), including residential and personal averments based on factual information unknown to Defendant, and thus each corresponding paragraph is separately denied.

3. Paragraphs 14-34 are all averments about the facts and legal status of other entities, based on factual information unknown to Defendant, and are therefore each corresponding paragraph is separately denied, except paragraphs 18, 33 and 34. As to those, SCRG admits as to paragraph 18 that it *is* a limited liability limited partnership, but denies any legal conclusions about it or what its citizenship is "deemed" to be; also SCRG admits that it purchased and is the owner the physical property where the refinery once was, as set forth in paragraphs 33 and 34, but denies, as to paragraph 34, it has owned or operated a "refinery" -- stating that SCRG is a protected purchaser, under applicable law, of a 'brownfields' site.

FACTUAL BACKGROUND (This and all captions below are from the Complaint)**A. St. Croix Alumina Refinery**

4. All of the paragraphs in this section deal with refining bauxite and a refinery operation prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

B. Hurricane Georges

4. All of the paragraphs in this section deal with Hurricane Georges and alleged injuries to Plaintiffs prior to SCRG's 2002 ownership; SCRG was not in existence and has no actual knowledge, and thus each corresponding paragraph is separately denied.

C. After Hurricane Georges

5. SCRG separately denies all of the corresponding paragraphs in this section, except for paragraphs 71 through 77 which are admitted.

D. Related litigation

SCRG separately denies all of the corresponding paragraphs in this section, as they deal with a recitation of a purported 'legal history' that is a matter of record, on which SCRG relies.

COUNTS I THROUGH VII

SCRG separately denies all of the corresponding paragraphs in Count I, except that it admits there are residential communities North of the property.

SCRG separately denies all of the corresponding paragraphs in Count II,

SCRG separately denies all of the corresponding paragraphs in Count III.

SCRG separately denies all of the corresponding paragraphs in Count IV.

SCRG separately denies all of the corresponding paragraphs in Count V.

SCRG separately denies all of the corresponding paragraphs in Count VI.

SCRG separately denies all of the corresponding paragraphs in Count VII.

AFFIRMATIVE DEFENSES

For its affirmative defenses to the allegations in the Complaint, SCRG states:

FIRST DEFENSE

1. The complaint is barred in whole or in part because some or all of Plaintiffs' claims and causes of action fail to state a claim for which relief may be granted.

SECOND DEFENSE

2. The complaint is barred in whole or in part by the statutes of limitations.

THIRD DEFENSE

3. The complaint is barred in whole or in part because of the doctrine of comparative negligence.

FOURTH DEFENSE

4. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused solely by acts or omissions of third parties: other than SCRG, an employee or agent of SCRG. SCRG took precautions against foreseeable acts or omissions of those defendants and of such third parties and the consequences that could foreseeably result from such acts or omissions. SCRG took reasonable precautions against foreseeable consequences of any such third party.

FIFTH DEFENSE

5. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, some or all the damages alleged to have resulted from releases of substances or hazardous substances were due to acts of the USVI or US Governments or of SCRG acting under lawful orders of the USVI or US Governments.

Moreover, to the extent the materials released are alleged to be harmful substances under CERCLA, Plaintiffs' recovery is barred or reduced in proportion to the liability of others under CERCLA.

SIXTH DEFENSE

6. The complaint is barred in whole or in part because Plaintiffs have failed to join indispensable parties necessary for adjudication of its distinct claims, and its action should be dismissed, for example, the Government of the US Virgin Islands.

SEVENTH DEFENSE

7. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom resulted from one or more permitted uses.

EIGHTH DEFENSE

8. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, SCRG may not be held liable for some or all of the damages alleged by Plaintiffs because such damages were specifically identified as an irreversible and irretrievable commitment of the premises and its resources in an applicable permit, environmental impact statement or other comparable environmental analysis, and decisions to grant a permit or license authorized such commitment of natural resources.

NINTH DEFENSE

9. The complaint is barred in whole or in part because some or all of Plaintiffs' claims for damages seek a double recovery.

TENTH DEFENSE

10. The complaint is barred in whole or in part because some or all the releases, costs sought to be recovered and other actions for which relief is sought in the Complaint, if they occurred, are preempted by the adoption of CERCLA or other federal statutes, and, therefore, are barred.

ELEVENTH DEFENSE

11. The complaint is barred in whole or in part because the real property on which the facility was located was acquired by SCRG after the disposal or placement of the alleged hazardous substances on, in or at the facility by permitted use. At the time SCRG acquired the facility, SCRG did not know or have reason to know that one, some or all the alleged hazardous substances which are allegedly subject to release or threatened release were disposed of on, in or at the facility.

TWELFTH DEFENSE

12. The complaint is barred in whole or in part because SCRG is not liable under federal and USVI laws as it meets the definition of a *bona fide purchaser*, and/or a *bona fide prospective or actual purchaser*.

THIRTEENTH DEFENSE

13. The complaint is barred in whole or in part because SCRG is not liable for indistinguishable releases from contiguous properties, including, but not limited to, the HOVENSA Refinery, Port Authority and WMA sewer and dump facilities.

FOURTEENTH DEFENSE

14.. The complaint is barred in whole or in part because some or all requests for relief have already been discharged or satisfied, because of SCRG's legal actions, such as, but not limited to, the red mud removal, the covering and remediation of the site and restoration pursuant to DPNR and Federal Court orders.

Moreover, SCRG has been prohibited from acting, ordered not to act or ordered to act as a part of those other consents or proceedings.

FIFTEENTH DEFENSE

15. The complaint is barred in whole or in part because Plaintiffs have failed to fulfill statutory or procedural prerequisites as to some or all of their claims.

SIXTEENTH DEFENSE

16. The complaint is barred in whole or in part because if the releases alleged in Complaint occurred and have resulted in harm, all of which SCRG denies, the harm caused is a divisible harm; accordingly, SCRG cannot be held jointly and severally liable for such harm as it did not cause, as the damages or relief should be allocated.

SCRG is entitled to a percentage reduction offset against any recovery of damages for the amount paid by any other liable party or the equitable share of the liability of any person that has received or will receive a release from liability or covenant not to sue from Plaintiffs.

SEVENTEENTH DEFENSE

17. To the extent Plaintiffs seek to recover money damages for alleged future injuries, such future injuries are speculative, and recovery based thereon would violate SCRG's due process rights.

EIGHTEENTH DEFENSE

18. The complaint is barred in whole or in part because the Complaint lacks sufficient specificity to allow SCRG to understand the claims or assert defenses. Plaintiffs have failed to allege (a) the specific nature of SCRG's involvement, (b) the specific locations where each such release/contamination/injury/act of recovery or remediation occurred, (c) the specific substances released, (d) when the releases occurred, (e) when each injury occurred and (f) which release of what hazardous substance was the sole or substantially contributing cause of such injury (g) by what pathway exposure to the hazardous substance occurred, and (h) the resultant harm.

NINETEENTH DEFENSE

19. The complaint is barred in whole or in part because if the releases alleged in the Complaint occurred and have resulted in harm, all of which SCRG denies, one or more of the releases or threatened releases of a hazardous substance and the damages resulting therefrom were caused by one or more Acts of God.

TWENTIETH DEFENSE

20. The complaint is barred in whole or in part because Plaintiffs are barred from obtaining the relief sought in this action by the doctrines of unclean hands, waiver or equitable estoppel.

TWENTY-FIRST DEFENSE

21. Plaintiffs have accepted remediation and other relief, which has addressed and alleviated some or all of the damages alleged. This includes but is not limited to the cleaning of premises and cisterns.

TWENTY-SECOND DEFENSE

22. The complaint is barred in whole or in part because SCRG has not engaged in processing of bauxite ore or the creation of red mud piles. SCRG has not engaged in any abnormally dangerous activity. SCRG has simply attempted to reclaim a brownfield site consistent with the policy of the USVI and US governments.

TWENTY-THIRD DEFENSE

23. The complaint is barred in whole or in part by the equitable doctrine of laches.

TWENTY-FOURTH DEFENSE

24. The complaint is barred in whole or in part because by res judicata, collateral estoppel and/or law of the case, including but not limited to the Memorandum Opinion and Order of the U.S. District Court dismissing some or all of these claims as to SCRG.

TWENTY-FIFTH DEFENSE

25. The complaint is barred in whole or in part by the Plaintiffs "coming to" the nuisance.

TWENTY-SIXTH DEFENSE

26. The complaint is barred in whole or in part because Plaintiffs have failed to mitigate their alleged damages.

TWENTY -SEVENTH DEFENSE

27. The complaint is barred in whole or in part due to the defense of privilege, as SCRG is not liable for activities that either or both of DPNR and/or Plaintiffs either permitted, acquiesced in, or knowingly failed to prohibit and/or prevent while having a duty to do so.

TWENTY-EIGHTH DEFENSE

28. The complaint is barred in whole or in part because Plaintiffs seek injunctive and prospective relief for a situation or condition that has been remediated.

TWENTY-NINTH DEFENSE

29. The complaint is barred in whole or in part because it is unclear whether the Complaint seeks pass through damages regarding violation of environmental permits, even though much, if not all, of the conduct alleged to have been done by SCRG is conduct fully authorized by statute, ordinance, regulation.

THIRTIETH DEFENSE

30. The complaint is barred due to the doctrine of Force Majeure, as certain events were Acts of God.

THIRTY-FIRST DEFENSE

31. The complaint is barred due to the Plaintiffs' spoliation of evidence.

THIRTY-SECOND DEFENSE

32. The complaint is barred in whole or in part because SCRG is an "innocent land owner" within the meaning of 12 V.I.C. § 551 (g), and is not liable for damages under some or all the claims pursuant to 12 V.I.C. § 555(c)(1).

THIRTY-THIRD DEFENSE

33. The complaint is barred in whole or in part because any contamination is due to contamination and releases from contiguous properties, including but not limited to, the HOVENSA REFINERY. Consequently, SCRG is not liable for damages for such contamination pursuant to 12 V.I.C. § 555(d).

THIRTY-FOURTH DEFENSE

34. The complaint is barred in whole or in part because the statutory limitation period for the actions in this cause includes no acts by SCRG prior to June 22, 2002 -- as it was not an owner or in any way involved with the property until June 22, 2002. Thus, no equitable or other order which is predicated on prior dates can be entered, nor can damages be allowed.

THIRTY-FIFTH DEFENSE

35. SCRG adopts by reference all affirmative defenses heretofore or hereafter pled by any other Defendant, to the extent applicable to SCRG.

THIRTY-SIXTH DEFENSE

36. SCRG intends to rely upon all other applicable affirmative defenses as may become apparent during discovery in this action and reserves the right to amend its answer accordingly.

THIRTY-SEVENTH DEFENSE

37. The complaint is barred in whole or in part because Plaintiffs' Complaint does not describe its claims or events with sufficient particularity to allow SCRG to ascertain what other affirmative and other defenses may exist, and SCRG therefore reserves the right to assert any and every other defense that may be available to it under the various statutes, regulations and common law theories that they are alleged to have violated or under which they are alleged to have liability.

Dated: January 2, 2018



Carl J. Hartmann III, Esq. (#48)
Co-Counsel for Defendant SCRG
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Defendant SCRG
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of January, 2018, I served a copy of the foregoing by DropBox/email, as agreed by the parties, on:

**Lee J. Rohn, Esq.,
Rhea Lawrence, Esq.**
Lee J. Rohn & Associates
1101 King Street
St. Croix, VI 00820
Tel: 340-778-8855
Email: lee@rohnlaw.com

James L. Hymes, III, Esq.
P.O. Box 990
St. Thomas, VI 00804-0990
Tel: (340) 776-3470
Email: jim@hymeslawvi.com

Andrew C. Simpson, Esq.,
Bryant, Barnes & Simpson, P.C.
47 King St. 2nd Fl.
PO Box 4589
Christiansted, St. Croix, VI 00822-4589
Tel. 340-773-2785
E-mail vilegal@viaccess.net

Willie C. Ellis, Jr., Esq .
Hawkins Parnell Thackston & Young
303 Peachtree Street NE, Suite 4000
Atlanta, GA 30308
Email: wellis@hptylaw.com

**Richard H. Hunter, Esq.
Bruce Cole, Esq.**
Hunter, Colianni, Cole & Bennett
Pentheny Bld., 3rd. Flr.
1138 King Street, Suite 301,
Christiansted, St. Croix, VI 00820
E-mail hcctlaw@aol.com

**Rene Pierre Tatro, Esq.
Juliet A. Markowitz, Esq.**
Tatro Tekosky Sadwick LLP
660 S. Figueroa Street, Suite 1450
Los Angeles, CA 90017
Email: renetatro@ttsmlaw.com

